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Baker



## ORVILLE DEWEY BAKER

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Orville Dewey Baker, I beg your acceptance  
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Augusta, Maine.



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Bellamy Bales

Over against the great career of a judge upon the Bench, I would set for a moment the career within reach of a great lawyer at the Bar — self-respecting, and never servile, wise and conservative in counsel yet courageous in his convictions both as to law and fact, proud of winning his case yet not dismayed by temporary defeat, setting store by the books yet setting greater store by the power of original thinking and the luminous unfolding of legal principles which alone give value to the books, sullied by no taint of dishonor yet daring all things else in discharging his duty to his client,—all of us are justly proud to follow, *etiam longo intervallo*, such an exalted ideal.

ORVILLE DEWEY BAKER.

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being intended for private circu-  
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ADDRESSES AND MEMORIALS

OF

ORVILLE DEWEY BAKER

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(1847-1908)

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Edited by

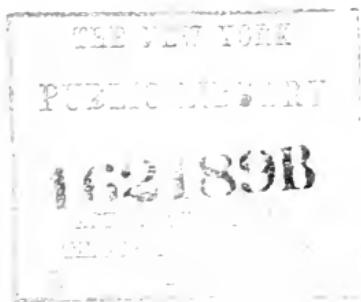
MANLEY H. PIKE

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AUGUSTA, MAINE

THE KENNEBEC JOURNAL

1909



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## FOREWORD

Orville Baker's oratorical activity extended over so long a period and so wide a range that it has been a matter of surprise to find how few of his speeches were preserved in print or manuscript. Of many of his best and most eloquent addresses not a word remains, save in the memories of his hearers. Some were delivered before private citizens assembled socially, and were, consequently, not reported; while others have perished because they were never fully committed to paper. It was his practice, when considering a speech, to jot down a few notes—sometimes to write out short passages which he wished to make exact expressions of his thought—and then, having learned these by heart, to extemporize the rest of his oration, building it up around this framework as he proceeded. Thus it will be seen that what remains of these notes can convey no idea of the actual address; and even the notes are few.

Moreover, a large part of the surviving speeches, being concerned with special subjects, or intended for special audiences, were not adapted to general reading.

From all these causes it has resulted that but seven of Orville Baker's addresses have been found available for the present purpose;

and four of these existed only in newspaper reports. Fortunately, however, the grand poem in memory of Chief Justice Peters had been privately printed. It remains an evidence of a lofty poetical power which for some reason the possessor had seldom cared to exercise.

The remainder of the volume is made up of a study of Orville Baker's character and attainments, together with the eulogies and more notable obituaries of his brother lawyers and the press. In the study just mentioned, the description of Baker as a student is the contribution of Hon. D. S. Alexander of Buffalo, N. Y. (Bowdoin, '70); and the appreciation of his abilities as a lawyer is by Hon. Herbert M. Heath of Augusta (Bowdoin, '72).

The editorials appearing in the Kennebec Journal, the Portland Press and the Maine Farmer are understood to be the work of Mr. C. B. Burleigh, Mr. Frederick Fay and Mr. S. C. Manley, respectively.

M. H. P.

AUGUSTA, MAINE, January 1, 1909.

ORVILLE DEWEY BAKER



## ORVILLE DEWEY BAKER

*(Died August 16, 1908)*

Mr. Baker was born in Augusta, December 23, 1847, and was consequently in his sixty-first year. He was born in the same house which he had occupied all his life. His father was Joseph Baker, a very distinguished lawyer. Mr. Baker graduated from Bowdoin College in the class of 1868, studied law with his father and completed his legal education at the Harvard Law School from which he graduated with high honors in 1872. The same year he was admitted to the bar and began the long career of hard and successful work which has just now terminated. In 1883 he was admitted to practice before the United States Supreme Court; and in 1885 he became attorney general of Maine, serving two terms. During this time he conducted the prosecution of David L. Stain and Oliver Cromwell, convicted of having murdered Cashier Barron of the Dexter Savings Bank—one of the most famous cases ever tried in Maine. He was counsel in many other great cases, and of late years often appeared for water companies in appraisal proceedings, of which the most important was the case of the Portland water companies which occupied several months in the spring of 1908.

He was counsel for the Maine Central and Boston & Maine Railroads, Western Union Telegraph Company, American Ice Company, Edwards Manufacturing Company, Hallowell Granite Works, the estate of J. Manchester Haynes and in the extensive timber land litigations of the Coburn heirs. At the time of his death he was President of the Maine Bar Association.

Mr. Baker was unmarried. His surviving relatives are Frances W. Rice of Rockland, Ellen B. Buck of Atlanta, Ga., Anna S. Ham of Hallowell, Sanford A. Baker of Chicago, Martha B. Dunn of Waterville, Harriet B. Dudley of Augusta, Henry B. Lewis of China, Maine, Delia L. Giddings of Boston, Mass., and Elizabeth R. Huntington of Norwich, Conn.

In college Orville D. Baker was an ideal student—tall, graceful, handsome, faultlessly dressed, joyous in disposition, and easily the first scholar in his class. As a fraternity man (D K E) he was also ideal, being a fine singer, a forceful debater, a brilliant writer, and a most charming, even-tempered companion. He seemed to excel in everything both in and out of doors. He was the finest baseball player, the crack billiardist, the best jumper, the fastest runner, and the most expert at ten pins. In baseball he had the skilfulness of a professional. His position was first base, and it took a wild ball to escape his long reach. Whatever the pressure he never failed to do his best. In the historic game with the Eons of Portland, when the Bowdoins won the silver ball in the fall of 1867, he shared first honors with Frank Ring (class of '69), the catcher. Indeed, Baker possessed all the essentials that make up a most popular man in college. He had a clean tongue. He exhibited an abundance of the ironical or pungent banter, which characterized his later life, but there was nothing low in his conversation, and he had no enemies. Among the young ladies of Brunswick he was equally a favorite. He danced properly, dropped a graceful compliment with sureness of aim, and never failed to make a chivalrous beau. Yet his attentions were evenly

distributed. He had already entered the incipient stage of bachelorhood.

His relations with the Faculty did not differ from those of other students. They admired his pleasing manners, his unusual brightness and readiness in recitation, and his quickness to comprehend abstruse propositions, but his observance of college proprieties did not distinguish him any more than strenuous industry in the beaten paths of academic routine. He was desultory and excursive, roaming at large over the varied heights that tempted his curiosity. Fortunately his great gifts enabled him to get his lessons quickly, giving him much time in the libraries. As the dawn of intelligence lighted the way he gave those assembled at the Fraternity dinner table bewitching visions of the realms thus explored. He anticipated by several years the Andover dispute as to the ultimate fate of those who never heard the saving name of Christ. Nevertheless, he allowed nothing to stand in the way of success in his regular studies. He took all of the then existing prizes—Sophomore and Junior declamation, and English composition. He became class orator, a Phi Beta Kappa, and an oration man at Commencement, and in 1871 delivered the Master's Oration. He was a student to be proud of. He gave character to the College, to his class, and to his fraternity. There was a manly dignity about him that seemed never to be out of sight.

His splendid address delivered at Commencement, 1908—the fortieth anniversary of his

graduation—recalled his college speeches. His charm was felt the moment he rose. His voice, musical as a flute, yielded without effort the happy inflections suited to the thought, while his love of form kept him insensibly under the influence of the best diction.

Like all college boys he had his moods. One week it would be a mood of grace; at another time he would exhibit a sort of bombastic irony, or brilliant, audacious banter, a trifle extravagant perhaps, but full of the love of scholarship. He was largely instrumental in establishing at Bowdoin the “’68 prize” for excellence in composition, the credit for which lies not so much in giving the money as in the fact that a class of young men, on the day of their graduation, showed such a high appreciation of the need of thorough training for public speaking. Baker’s idea was that a college man should be able always to express his thoughts clearly and forcibly, and while in college he set a high standard.

His crisp, pointed, and delightful college essays, could they be assembled, would make a fascinating chapter. A pleasant flavor of sarcasm would be found by the side of many passages that breathe the highest eloquence. Perhaps the too constant exercise of irony made sometimes a confusion as to whether he was writing or speaking seriously, but he never wittingly trod on a secret corn. He was too humane for that. Besides, he was without base or unpardonable faults.

But the qualities which made him eminently lovable and winning were his lack of jealousy and the absence of an offensive egotism. In so ardent a nature these are a real mark of superiority. Perhaps he might have developed jealousy had a greater than he been in his class or in his fraternity, for the ambitious man is rare who can watch without soreness the success of a rival. But Baker had no rivals. He was *facile princeps*.

As a lawyer Mr. Baker has left a name and reputation that comes to but few men in any state. He had the best of training. His mind was enriched by the ripe scholarship that came from his four well-spent years at Bowdoin. There he was a close student, his standing prophetic of his future ability. Travel and study in Europe broadened his mind early in youth. He fitted for the bar at Harvard Law School, showing even then a masterly grasp of the law as a philosophical science. He came to the Bar in 1872 in partnership with his father, Joseph Baker, then the acknowledged leader of the Bar of Maine. The son grew rapidly, not because of his father's standing but from his own power. He early became known as a trial lawyer. There he was at his best. His rise was rapid and in many respects remarkable. It is unnecessary to recount the many notable cases in which he appeared in this and other states. During the past twenty-five years there have been but few great cases in Maine in which he did not take part. Perhaps the famous Stain and Cromwell case will be the longest remembered. No man in Maine of the present generation excelled him. Leading lawyers have said he had no superiors in New England.

In direct examination he built the story of the cause with the touch of a novelist. In cross

examination he had his greatest weapon. There his fertility of resource carried his mind along from point to point with a skill pleasing to all but his opponents. In advocacy he was aggressive, courageous, logical; and, when the occasion required it, eloquent. But in the Law Court, in battling for new propositions of law, it is no reflection upon his fellow-members of the Bar to say he had no equals. So great was his conception of legal principles, so accurate was his idea of their relations one with another, so finely analytical was the keenness of his logical mind, that in his hands the common law expanded with society and equity took on new shape. He did much for the science he so dearly loved.

He was never a politician, with little or no ambition for public office. He served his State as attorney general and honored the office. Beyond that, he was content to follow his profession. Still, he was a close student of public affairs, strongly conservative and as firm in his convictions upon public questions as he was aggressive in asserting them.

He could well be called an orator, a much-abused term in modern times when all talkers are called orators. Graceful in manner, of attractive address, with a pleasing, well modulated voice, he brought to his work all the externals of true oratory. His diction was rich, at times a prose-poem. But word-painter as he was, he never forgot that the real work of an orator is to convince. The juries, judges, legislatures and

audiences that have listened to him will all bear witness that he more often convinced than lost. He certainly was an orator, a true orator, of whom his city and his State have been and will be justly proud.

He won his fame as a scholar, a lawyer, an advocate and an orator, partly by inborn genius, partly by opportunities vigorously grasped, but mainly by untiring industry. His capacity for concentration was a gift. Few men could so readily absorb a new and difficult problem as he. Often apparently whipped in a cause, he would reform his lines and come to the attack with a courage that snatched victory out of the jaws of defeat. When he worked he worked. He believed that work was the price of all success. The royal English that often entranced his hearers was not always born of a night, but was more often the harvest of years of study and of toil. Such men deserve the fame they leave. Orville D. Baker will go down the history of this State as a man great in whatever he undertook in life because he deserved to be great. We know that after death eulogy is apt to take on the garb of fulsomeness. But his rivals said of him living what we now say of him dead. They studied him to measure him. They had to study him to meet him. We but repeat the tributes often given him in the fulness of his strength, tributes from lawyers to lawyer, foes in the court-room, friends outside.

In private life Mr. Baker was as remarkable as in his public activities — partly because of the continued operation of the same faculties which won him success at the bar and on the platform ; and partly in that he revealed a character quite unknown and unrealized by the outside world. The nature of the man was essentially social — there was nothing of the recluse about him. The abounding vigor and mental alertness that made him a great lawyer and orator made him also a delightful talker and charming companion, whether in the ball room, at the dinner table, in his own library, or out of doors. He knew or had known so many and so various people — had been so much a partaker of his time — had acquired so wide and deep a knowledge of humanity that he could never be nonplussed nor at a loss, in whatever society he might find himself. He met the highest and the wisest on even terms ; but he was just as much at ease with the casual wayfarer encountered on the highway, or the little child who smiled up at him as he passed. He could bear even that hardest of hard tests — all day association with the same persons in the same house — without a single failure of tact or temper, always cheerful, always cheering, always kind and ready to amuse, or to be amused. He was a man who would take as much trouble to entertain another man, quite indifferent to him,

as he would take to please a beautiful girl—and beyond this courtesy does not and cannot go.

He possessed both wit and humor; he had the skill of quick repartee along with that of good-natured but keenly effective sarcasm, and a peculiarly amusing narrative style, full of queer and unusual turns of thought and quaint originalities of language. To hear some important law case described by him with this light facetiousness of touch, as if he had found the trying of it—and the winning of it—but the merest pastime, was to have new light upon the careless strength of the strong.

Mr. Baker read little of general literature during his later years; but his mind was so stocked with the results of immense reading in his youth, stored up and held always ready for use in that wonderful memory of his which never forgot and never misrecalled—that he was invariably prepared for any call upon him. He belonged to that small band of American college graduates for whom the best Greek and Latin authors still remain a permanent influence and a living force; nor can any one who listened to the plea for the classics which he made at Bowdoin last June soon forget either it or him. He was familiar, too, with the best achievements of art, and he had been for years an intelligent and enthusiastic collector of old glass and china, oriental rugs and colonial furniture. He loved music and had heard much of the best of it.

Having to a surprising extent the gift of throwing business off his mind whenever he wished, he could go out from a day of the severest kind of office-work, or from a fiercely-fought case in court, to a game of tennis, or a ramble in the fields; either of which he would enjoy with the single-hearted zest of a child. This precious power he owed very largely to his singular strength of mind and body. Once, after a seven-hour speech, delivered without notes, though full of facts and figures, he was asked if he were not tired. "Yes, tired of standing in one place so long," he answered, quite sincerely. He positively did not feel drains upon his vitality which would have prostrated weaker men. Weights were gossamer to him which were lead to others.

He constantly showed that almost infallible sign of greatness — the power of being pleased with simple things. He liked to stroll through the woods or along the roads he had known all his life, watching the birds of which he made a special study, observing the shifting effects of light and shade, the color of the sky, the fickle forms of the changing clouds and the scarlet splendors of the sunset. On some rocky hill-top, or under a forest tree he could sit long and happily, talking and looking about him. His interest in flowers and all growing things was a part of this habit of mind.

He loved animals as few love them; and he received from them the reward of the loving — love. His fondness for cats, of which he seldom

had less than seven or eight about the house, used to be a standing jest among his acquaintances ; and his dogs were his brothers. Wherever he went he made all beasts his friends ; and he would boast laughingly that he knew every cat, dog and baby for miles out along certain roads from Augusta.

For children loved and trusted him, too. There are many of them who will miss the tall, white haired man who petted them and joked them and knew them by their names.

It was so that he went about his world, cordial and friendly, full of banter and laughter, standing not at all on the dignity none could better assume when it was needed—betraying not at all any consciousness of being, as he was, the intellectual superior of almost every one he met—a jovial giant, joyous as a schoolboy. Yes, as a schoolboy. For this legal athlete, this surpassing advocate, this mighty man of business, kept hidden underneath all his learning, all his culture, all his accumulated immensity of experience, the honest heart of a boy, fond of the things of earth and air and sky and sea as a boy is fond of them, and able to taste, as a boy tastes, the fresh flavors of that evening and that morning which are ever the first day of creation while boyhood lasts.

Not many knew him thus—but thus those who knew him knew the real, the best Orville Baker ; and, having thus known him, they can

never without a thought of their lost comrade  
look out at all he used to look at once, but will  
never look at with them any more.

# A D D R E S S E S



# IS ALL DEVELOPMENT IN NATURE, LIFE, MIND, AND SOCIETY, RHYTHMIC AND PERIODIC?

*Address before the Alumni of Bowdoin College*

A distinguishing characteristic of modern thought has been the growing sense of the universality of law. That every phenomenon of nature takes place in obedience to a pre-established and invariable order, and not at the caprice of a pleased or angry god, is a conception so refined that it fellowships only with a high civilization and great powers of analysis. To the ancients the flat earth, the circumfluous ocean and the all embracing air were alike but the dwelling place of mystery, and the sport of antagonistic and unreasoning gods. Earth must be propitiated by gifts lest she refuse her fruits in their seasons, else blight and mildew, drought and storm would bring to nought the labors of the husbandman. By the frown or favor of Neptune the waves roughened or grew calm, and he whipped the winds from their storm-caves to minister to the whims of his malice; while Juno and Venus, wife and mistress of Jove, embroiled Olympus itself with their strife over the fate of the pious Eneas.

The moon and stars, as they whirled through

space, were supposed driven by unseen powers, or else as fixed in spheres of solid but transparent crystal, turning forever round the stationary earth. When Jove the thunderer knit his brows, the sky wrapped itself with blackness, and with a noise as of chariots and horsemen the storm-spirit walked abroad. Comets blazed across the sky, eclipse ate up the glory of the sun, stars quit their spheres and went out in mid air like candles too quickly snuffed,—all only to portend calamity to the sons of men. The pestilence that walketh in darkness, the war that wasteth at noon day, and the famine that hungereth but is not satisfied, were all visitations of a god that waited to be appeased.

The commonest events of life required the presence, or were explained on the theory of, the supernatural. The rosy Hours unbarred the gates of the morning, Phœbus guided the chariot of day, Hesperus, the love star, foretold the sweet coming of night; Satyrs and Dryads, Nymphs and Sylvan Fauns sported in the woods and beside the waters; Bacchus in person led the revels of the vineyard, Priapus was god of the orchard and the garden, while every fountain, grove and river had its peculiar deity, and with equal reverence Eneas bore from smoking Troy the aged Anchises and the household gods. Lucina presided over birth; Mars trained the growing youth in arms; Apollo nourished him with poetry and the arts, Mercury gave nimble and persuasive speech; Diana held up the mirror

of chastity, Minerva proffered the apples of wisdom, Venus wooed to langour and to love; while over all, superior to Jove himself, at the foot of Pluto's ebony throne, sat the solemn sister-Fates with the distaff, the spindle and the shears, spinning in silence and mystery the thread of life; and death itself must wait till Atropos applied the fatal shears. At death Charon, with his skiff and freight of shadows, waited to ferry the souls across the Styx to the pale realms of the dead, and there, among its unsubstantial and flitting forms, were the legion that attended the living man; Care and Sorrow and Disease, meagre Want, sullen Remorse, thirsty Fever, scowling Hate and muttering Revenge, Fear that starts at its own voice, and Jealousy making of "trifles light as air confirmations strong as proofs of holy writ." Only after long probation was the vexed shade admitted to the bland air and immortal bloom of the Elysian fields.

Such was the ancient conception of the universe; the sky a bewildering mass of lights of differing brilliancy, moved about from place to place as lanterns are carried in the dim heights of a belfry; some constant, some waxing and waning in periods, some at rest, some in motion; Nature a congeries of disjointed phenomena, coming none knew whence or how, moving none knew whither, intricate, capricious, orderless. The first step towards scientific knowledge was taken when men passed from the anomalies, to

observe the uniformities, of nature. The untrained mind is moved by the irregularly vast: as the earthquake, the volcano, the comet, the meteor. The trained mind is moved by the regularly vast: as systems of stars held together by the single law of gravitation.

Phenomena now began to be grouped and classified. Like effects were referred to like causes. Certain sequences of events were observed to be invariable, and the number and variety of these were constantly extending. A patient study of nature revealed real harmony underlying apparent discord, and unity in the midst of diversity. Copernicus established the fixity of the earth and the revolution of the sun. Galileo and Tycho Brahe reinforced him by their powerful genius. Kepler discovered the laws of planetary motion. Newton unified the whole by the great principle of gravitation, and astronomy was forever freed from superstition and fixed on the basis of law. Halley proved the parabola of the comets, and those wandering flames were added to the conquests of law. Dalton conceived the law of definite, multiple and equivalent proportions, and chemistry has since stood side by side with astronomy. The famous vortices of Descartes led the way to Herschel, Kant, La Place and the Nebular Hypothesis. This was the precursor of modern evolution, and then for the first time was conceived the grand possibility of a universe evolved from matter and force by the operation of law, which is but the

expression of the Divine will. The subjection of one science to law suggested, and made easier, the subjection of the next. If there was a law for the planets, why not for the comets and meteors? If there could be a universology for the heavens, why not a geology for the earth? If the currents of the sea could be tracked and foretold, why not the currents of the air, the wind, weather, storms? If there was an order of development in rocks and hills why not in plants and trees? If in the mineral and vegetable, why not in the animal world?

Thus knowledge advanced. Nature opened to science as the snow-drop to the sun, and Fetischism and Polytheism were displaced by the conception of a majestic and universal order, creating, fashioning, disposing, upholding all by immutable laws.

But the empire of law was as yet thought limited to nature. Her forces were constant and inexhaustible. The untold ages that had passed had neither lessened nor augmented the sum total of their energies. Their form shifted, their quantity never. With the same amount of force to work with, nature has ever the same substance, matter, to work on. Above all, nature does no thinking. It has no will, no choice. It does the work of another, and does it according to his law. The stone, the flower have no volition. They have but one thing to do, and they do that till they die. The animal can change its place, and within limits its state.

If uncomfortable in one position it can move. If tired of the sun it seeks the shade; if hungry it eats; if exhausted, sleeps; if hot, it stands in the brook. But this it does, not from intelligent choice, but overmastering instinct. It sees and hears and feels, but it does not think or choose. The stone is hard, the flower sweet, the tree tapers, the sun shines, the cow grazes, the kitten plays, not because they will to do so, but because they cannot help it. They are in the hands of a master, and have no power to do otherwise. But the region of the unthinking and non-volitioned seemed to mark the natural bounds of law, as mountain chains the bounds of countries. The very nature of law seems thus to circumscribe its own dominion. Like nature, law neither thinks nor spares, and acts by necessity, not from choice. It is hard, relentless, inexorable as fate. It visits without mercy the consequences of disobedience and wrong doing. It respects no place or person. It punishes neglect of physical law with pain and sickness and death, it does the same with mental and moral law. It shrivels and withers the unused; it makes of the abused a passion that overmasters. It is, by turns, swift, sure and deadly like the lightning, and slow moving, relentless and awful like a Fate. It considers no motive, it listens to no excuse or apology. It condemns alike those who innocently transgress and those who intentionally violate. Past obedience or services are no atonement. Its

ears are stopped, its mouth is dumb, its heart is stone, but it sees with unsleeping eyes, and strikes with remorseless and omnipotent hand. Cold, passionless, omnipresent, unescapable, it preserves by necessity, and crushes with a sneer. It supports innumerable stars that they clash not one with another, but it hurls men from buildings, drags them down precipices, crushes them with weights, drowns them in the sea. It sends the gentle wind from heaven, but it lashes the tornado into fury, and puts fangs in the jaws of the pestilence. It packs away sunlight in the chambers of the coal, but lets it out to lap up great cities with conflagration, to leave men homeless and women crying. It tempts the seed with sunshine and dew, but it mildews the wheat and lodges the bladed corn.

But man stands on a different plane. All things else have been made for him, and to some extent he controls them. He alone has intelligent choice. He not only feels and moves, he thinks and wills. He can adapt means to ends. Of two courses of conduct he can choose the one or the other, with reference either to immediate or remoter good. He can succumb to instinct or appetite and be a brute, or trample both and be a god. He can live only for the day, like the butterfly, or for eternity like Plato and Apelles. He is fastened to no orbit as are the stars, and limited to no career as is the brute; he has time to work in, and eternity to work for. Withal he is so capricious as to be a

puzzle to himself. He does today, what he despises tomorrow, and chases with outstretched arms tomorrow the bauble he threw away today, while the truth, which in one age he rejects and persecutes, in the next shines apparent before him, indispensable, like the sun.

Is it surprising, then, that the acts of this free, volitioned, capricious being should long have been deemed the solitary exception to the law of order. It was reserved for the nineteenth century and for Auguste Comte to conceive and develop the luminous idea that there was a law and regular sequence in the history of opinion and the development of society; and that if man the individual, comparing brief periods of time, seems unstable as water, man the aggregate, comparing longer periods, moves, acts and even thinks in well defined lines of development, the laws of which under a wider induction may sometime be as accurately mapped out as the laws of light, heat or falling bodies. Indeed the seeming capriciousness and disorder which marks the ways of man is only a counterpart of that which we have already seen in nature. The cyclone, the earthquake, the avalanche, the plague, are as unaccountable as they are baleful, and smite without plan as without warning. Now they are scattered broadcast over a hemisphere, now heaped in accumulated ruin on a single district; now separated by wide intervals of prosperity; now trampling one on another like phrenzied men that flee from falling walls. Thus to the

unphilosophic mind nature spreads out a scene of boundless and unmitigated disorder. Even Stuart Mill in his posthumous Essays on Religion makes this the climax of his terrific arraignment of nature. To borrow his words: "Even the love of order which is thought to be a following of the ways of nature is in fact a contradiction of them. All which people are accustomed to deprecate as 'disorder' and its consequences is precisely a counterpart of nature's ways. Anarchy and the Reign of Terror are overmatched in injustice, ruin and death by a hurricane and a pestilence." That this is the surface view few will deny, and it is only when deeply considered that nature offers the spectacle we have contemplated, of a universe set in order.

If then the anarchy of nature resolved itself into law, and all its discord was "harmony not understood," why might it not be the same with mind. Thus Comte, applying his brilliant and philosophic genius to the history of the human mind, read there an orderly progress and growth, from the day when it first groped after a wider knowledge, an infant crying in the night, till now, when it plays unabashed with the Titian forces of nature, and knocks loudly at the doors of the Infinite.

Herein lay the greatness of Comte as a thinker, that he saw clearly the fact of such a progress, not that he mapped out its true order of development. To bind together this and all

other development, physical, mental, social and cosmical, into the sheaf of evolution and then to track and more nearly formulate its laws, was reserved for the encyclopedic knowledge and more universal genius of Mr. Spencer. To use the just and fine illustration of a later developer of evolution, Mr. Fiske, "modern philosophy may look to Comte for its Copernicus, but to another for its Kepler and Newton."

A notion rapidly took shape that this progress, whatever it was, and whether towards better or worse, was at least uniform and uninterrupted. Some few read in history a uniform retrogression. Vico saw in it a single, vast, ever recurring cycle, like the path of a planet, in which the human mind, having advanced to the extreme verge of its orbit, returns upon itself and begins once more its dreary round; but by far the greater number saw in the human mind an inherent and necessary tendency towards perfection, which would not be stayed or interrupted, but, with unresting energy, moved towards its goal by constant and solid increments of progress.

Whatever, then, the goal of progress, the theory of its uninterruptedness has thus become firmly fixed, and is probably acted on by the great proportion even of cultivated minds. It will be the business of this discussion to examine the truth of this theory.

*Is all development, in nature, life, mind, and*

*society, thus constant, or is it rhythmic, recurrent, oscillating, yet progressive?*

A mountain side, seen from a distance and in front, seems a regular and unbroken slope; in reality it rises by a thousand fluctuating ascents and descents and discouraging stretches of level. A ship steers for a distant port, but it will be by a series of tackings. Light travels from the sun earthward not in a direct line, but by undulations. The advancing tide is made up of waves, each of which advances and recedes with an alternating rhythm of its own, and the highest point touched by one may long mark the limit of advance; but by and by it will be overlapped, and swept from sight, by a successor; yet all the while, in rest or in advance, the tide is coming in. Such is the movement of mind, at once *rhythmic and progressive*. Vico, indeed, by his famous cyclic theory gave to the mind's development rhythm, but denied it progress. His rhythm was a swing from nothingness back to nothingness; not the progressive rhythm of the tide, but the vain rising and sinking of a wave far out at sea.

The purpose of this examination will be to suggest and briefly illustrate the principle, that the progress of nature, life, mind and society has not been steady and uninterrupted, but by irregular propulsions, with intervals of rest and even retrogression; that it moves not continuously but by undulations; that, if direct at all, it is only as an imaginary mean between two

real and ever shifting extremes of oscillation; that you cannot lay your hand on it at any point indifferently, and find it tremulous with an unresting advance; that therefore halts or breaks or retrogressions not only do not disprove an inherent tendency towards betterment, but do not even mar its plan, being but phases of a little noted law of mental, as well as physical, movement, viz: progression by rhythmic alternations and periods, like the tides.

We shall examine the evidences of the existence of such a law:

First: In the analysis of nature and life.

Second: In the action of the individual mind.

Third: In the movement of society.

Spencer's profound thought first generalized into a law of nature the fact that motion never takes place in right lines, but in undulations, backward and forward movements, as the sea when moved is thrown into waves; that all motion has its periodic rise and fall, making up what he aptly calls the Rhythm of Motion, as the harmonic rise and fall of stress and pitch make up the rhythm of verse.

In nature—to begin with the commonest things—the progress of the year is accomplished not by perpetual summer or winter, nor by a constant progression from heat to cold or cold to heat, but by the ceaseless alternation of one with the other, forming the familiar and proportioned cadence of the seasons. So the advance of time from season to season is by successive undula-

tions of day and night, light and darkness. So a single day, from "morn to noon, from noon to dewy eve" and back again to morning, has a graduated and harmonic rise and fall, like a wave, whose perfect proportion is only unnoticed because familiar.

So the progress from one season to the next is not persistent, but intermittent, with stationary days and sudden pushings forward. Summer revives in the brief gold of October, and spring, which today turns away her face, coy like a maiden that is wooed, tomorrow decks herself with apple blossoms and daffodils, and runs to court the summer, like a bride that is wed. So there is not only the rhythmic increase and decrease in the length of the days from December to June and from June back to December, but the daily rate of change has a tidal rhythm of its own, the days lengthening or shortening faster and faster as they near the Equinoxes, more and more slowly as they near the Solstices, and halting at June and December almost without change. So the great currents of air, which form the circulation of the globe, move to and fro like a mighty pendulum, rising from the torrid regions of the equator, flowing out to either pole through the upper air, then swinging back as an under-current to the equator. The currents of the sea, moving from the equator to the poles overhead, with return flow underneath from the poles to the equator, obey the same law of slow, unresting rhythm, and the ice-

berg and the ship, left to themselves, go floating opposite ways, for the ship takes the current of the surface, while the iceberg is moved by the great polar underflow. The Gulf Stream curves its eastern arm round the shores of Great Britain and Spain ; its companion of the Pacific does the same for China and Japan, then each returns on itself in a closed and rhythmic circuit, like the path of a star ; while along these vast circuits of rhythm, the air, like the water, is propelled in wave-like undulations. The trees, the tall grass, poppies, corn sway in the wind, the storm has its lulls and its moments of fury, because the force that impels them all is not constant, but intermittent and rhythmic. The rain does not fall all day with a monotone of sound, but beats fiercely, dies down, and swells again.

The disturbances of nature, like its harmonies, obey the same law of periodicity and rhythm. The fires of the Aurora come in pulsations ; electricity, the earthquake, the volcano propagate in shocks, alternating with periods of rest. Thunder comes in recurrent crashes, gathering and recoiling, and each shock is rhythmical in itself with gradual swell and subsidence.

The famous voyage of the ship "Challenger" revealed many beautiful and striking confirmations of this law of rhythm.

The relative gathering of clouds is found, when studied under a sufficiently long observation, to follow this same law of alternation, exhibiting daily a double periodicity, having its

first maximum in the morning, lasting till shortly after the sun has risen, followed by a minimum till noon, then rising to a second maximum at about 4 P. M., and dropping to its final minimum from sunset to midnight.

So there is a similar average undulation in the amount of hourly rainfall, which can be calculated for each differing locality, and which, like the rest, is symmetrical in its wave-like movement from maximum to minimum. At Philadelphia, for instance, 6 P. M. marks the average maximum, and 3 A. M. the average minimum, while at Vienna each summer day shows three distinct maxima and minima.

The longer alternations of wet and rainless seasons in many climates is familiar, and from observations made by Prof. Draper at the Central Park observatory it seems probable that still slower cycles exist, for different localities, of excess and deficiency in rainfall, cycles requiring four or more years for their completion, and each one oscillating with a pulsating progress about an established mean.

So even the wandering wind, the poet's symbol for the unstable, no longer "bloweth where it listeth," in the sense of being held to no law, but is found to follow a defined and rhythmic wave of velocity, having its minimum in the hours between midnight and four A. M., and then gradually rising with the sun till it finds its maximum of force from midday to two P. M. Not only this, but we find that the

wind's *rate of change* from rest to violence and back again to rest is not constant, but fluctuating, remaining nearly stationary from ten P. M., to nine A. M., and then increasing from nine A. M. to six P. M., sweeping up, and then down, its wave-like course with great rapidity.

In nearly all climates near seas or large sheets of water, there is, coupled with the previous rhythm of swell and subsidence, a daily periodicity even to the *direction* of the wind, setting in from the sea in the morning, rising in velocity with the sun, dying away towards evening, to be followed by a breeze from the land, which in turn stiffens through the night, and sinks to rest in the morning.

So thunder-storms have a progressive frequency of occurrence at different hours of the day, dependent somewhat on the locality, the average of which marks for each locality its own peculiar and permanent curve of undulation.

In like manner whirlwinds, water-spouts, tornadoes, have a marked rhythm of waxing and waning frequency at different hours, corresponding generally with the maxima and minima of temperature, wind-velocity, and thunder-storms, being least in number between ten P. M., and ten A. M., then rapidly increasing, till, between two P. M. and six P. M., occurred almost two-thirds of the one hundred and sixty-two observed.

It is now known that storms travel in definite paths, and it is a curious fact, the subject of a paper by Prof. Loomis, that the progress or

velocity of a storm path is not uniform throughout the day but advances by paroxysms, having its highest velocity from four o'clock to eleven at night and reaching its maximum at eight.

If we pass for a moment from the external, to the internal, movements of nature, as science reveals them to us, to those atomic forces whose incessant and tremendous energies underlie the world of appearance, we are met by the same law. Sound, heat, light, electricity, chemism, the great highways by which matter passes into the cognizance of mind, are all only atomic waves, and differ only in the rapidity of their vibrations. And curious science, prying into the very constitution of matter, resolves it into groups of ultimate atoms, round, indivisible, indestructible, never packed so closely that they are not surrounded by space, approaching and receding, but never touching; and these atoms swing incessantly backward and forward through infinitesimal orbits, with a motion as perpetual as that of the earth or sun.

And, passing at a bound from the world of atoms to the world of suns, if we set out among the stars, and journey from system to system, even to those whose dim and far-off suns glimmer feebly into our most powerful telescopes, there is no known sun or planet which does not swing in rhythm, and whose motion does not rhythmically slacken towards the greater axis, and accelerate towards the lesser axis, of its orbit.

The brave patience of the German Schwabe,

who, in forty six years missed but a single observation and that through illness, revealed the fact that the much feared eruptions through the solar envelope which we call sun spots, and whose yawning gulfs are hundreds of miles from brink to brink, obey this same law of periodicity; appear and disappear, wax and wane in frequency, with a fluctuating ebb and flow, which takes slightly over eleven years for its completion. So the magnetic needle is true to the pole only by a series of pendulum-like departures and returns, whose complete circuit requires upwards of two centuries and a half, while, subordinate to these, are minor rhythms of variation from year to year, from season to season, and even from day to day; and, intermediate between the two, is the variation that completes itself each eleven years, and thus curiously coincides with the sun-spot period. Prof. Loomis has shown that the frequency of the auroral light exhibits a true periodicity, following closely, though not exactly, the maximum variations of the needle and the activity of the sun spots; and it is now a familiar truth, as pointed out in the last United States Coast and Geodetic Survey, that the great magnetic storms, which are evidenced by violent and abnormal deflections of the needle, and which sometimes paralyze all telegraphy within wide and separated regions, have a rhythm which again swells and sinks with the mysterious activities of the sun spots; compounded with yearly and even daily tides, which reach their flood between seven and

ten in the morning, and their ebb between two and six in the afternoon.

If, now, we turn from inorganic to organic matter, we shall find that all life, vegetable and animal, gives striking testimony to this suggested law of tide-like alternation, minute advances and retreats, compounded with the slower rhythm of permanent growth followed by decay and death.

Plant life, which Mr. Spencer thought did not exhibit very marked rhythms, will be found, in the light of latest science, most instructive. The life of the plant is a continuous balancing of opposite functions. It is supported solely by the alternate in-breathing of oxygen and out-breathing of carbonic acid and water, decomposing and appropriating what it needs, recomposing and exhaling what is waste. So there is the annual rhythm of ascending and descending sap, from the roots out into the branches and leaves and back again to the roots.

But it is in growth—which is nature's name for progress—that the most perfect type is found of rhythmic law. There is first the familiar rhythm of day and night, the plant's power to assimilate its food being coincident with light and ceasing in darkness. There is yet the still more familiar and slower rhythm resulting from the annual seasons. There is a further and proportioned rhythm depending on temperature, and shifting from hour to hour, each plant having its minimum and maximum degree of heat below and above which it refuses to grow, while be-

tween these two extremes, its rate of growth increases up to a third point of temperature, and, beyond that, decreases.

But the most striking and beautiful of all plant rhythms is this; that, when all conditions are kept the same, the rate of growth is not uniform, but has a proportioned wave of increase and decrease, growing slowly at first, then more and more rapidly to a maximum, then again diminishing till it ceases altogether. If a series of rings be made round a growing shoot, after a given time the distance between them, as you pass from the point back, will be found to follow a symmetrical undulation, first of increase, and then of decrease. But this is not all; while the plant's path of growth is a straight line, it holds that path only as the needle holds the pole, by a series of variations from it, since, if one looks down on the up-growing point, it will be seen either to oscillate from side to side of its true axis, or to describe a minute spiral about it.

So that all vegetable life sweeps along a complex and rhythmic orbit of growth, much as a planet moves through the heavens, with fluctuating velocity and distinct recurrence.

If now we pass from plant life to animal life, the same law of wave-like alternation still pursues us. Not only growth, but life itself, is maintained by a multiform series of alternations, by alternate rests and pulsations of the heart, contractions and expansions of the lungs, successions of wakefulness and sleep, activity and repose.

Food is swallowed by a wave-like constriction, digested by a wave-like action of the stomach, and the waste expelled by a like action of the intestines. The needs of the system are recurrent and periodic, as for food, drink, exercise, rest. The great life sustaining circulations, like the blood, have their circuit and their return as much as the currents of the ocean or the air, and, like them, are transmitted along their path in pulses or waves. Man's life is a constant battle-ground between contending forces, those that build up and those that destroy, and inch by inch the ground is contested. Every motion, every respiration, every heart-beat, every thought demands the prompt supply of new energy to replace it, and no atom of potential force can be taken into the system without being set upon at once by the forces of destruction and dissipated again in growth and motion, activity and thought. Only when there is a daily surplus of vital income over expenditure, does the body grow. The amount of this daily accumulation, after swelling to a maximum, slowly decreases till growth ends; then for a time the constructive and destructive forces hang balanced in fierce fight, till at last victory passes its plume to the destructive, and growth sinks into accelerating decay.

Thus the life of animals, as of plants, perfect as a star through its ellipse, swings to and fro through the orbit of its growth with a velocity which rhythmically slackens as it nears maturity,

is there poised for a time in rest, and then rhythmically augments till death completes the circuit. But whether in its increase or decrease, this longer rhythm of growth is not simple or constant, but oscillating, and compounded with various lesser rhythms, which may retard, arrest, or even temporarily reverse the current. The whole circulation, and the pulses which are its weather-cock, slackens with rest, quickens with food or exercise. The excessive waste of the day is made good by night and sleep; extraordinary exertion of body or mind, conditions of food, drink, climate, drainage, each causes its separate and wave-like fluctuations. The bodily health is always in unstable and vibrating equilibrium, sensitive as a magnetic needle. The distribution of vital forces is never precisely the same one week or one day with another. The athlete, the oarsman, the boxer, the runner know that the body cannot long be kept at the severest pitch of training, neither is it always panoplied alike against danger, disease or death. The springtime of life has its days of winter chill, while even into November steals sometimes a glint of gold from life's vanished summer.

The minor changes from health to sickness or from sickness back to health are not constant, but waning health has its waves of revival, and returning health its waves of relapse. That disease is essentially rhythmic, with major and minor fluctuations, needs not the telling, to those who remember the illness of Grant, Conkling,

Sheridan and the Emperor Frederick ; above all, not to that nation of watchers over Garfield's bed, who saw, hoping against hope, the wavelets of returning vigor creep bravely back towards life, knowing that the slipping tide was all the while setting outwards towards death.

Pain and delirium come in paroxysms, settled madness may have its intervals of sanity, and has always periodic undulations, whether in improvement or decline. Fever sweeps to a climax, and has periodic waves of increase and decrease at night and morning. And, underlying plant and animal alike, and breaking in through all these minor rhythms as the deep swing of the sea through voices on the shore, is the great rhythm of life and death, against which no man may stop his ears.

From the known symmetry of nature's working, we might well expect that so universal a law of development in matter and life would hold also of the individual mind. Indeed, short reflection will teach us that the mind, too, in its needs, development, activities and products, is essentially rhythmic, and closely follows the plant and the animal. Like them, it has its central and graduated climax of development and decay, and, like them, it sweeps along its path of growth by rhythmic alternations of tension and repose. Like the body, it cannot be held to its best, but swerves. None of its activities are incessant. Like the bow in light, or the battering ram in ponderous things, after exerting its utmost power

it must be drawn back to gain new. Its mastery of a subject or a problem is, like a battle, by successive shocks of attack and recoil, and, often, on the eve of defeat the supreme charge brilliantly wins the day.

Mental emotions, too, are rhythmic. Sorrow shows itself in sobs, and deepest grief never racks the mind with equal, but with recurrent, violence. Sudden or great joy, too, has its wave-like alternations, and often shows itself in short, recurrent rhythm of shout or song or leap or dance. Desires, appetites, impulses—intellectual, moral and religious—are not constant, but wave-like and periodic. Love steals in through the windows of the soul in gentle undulations, like the lapsing of a brook, grows by recurrent pulsations, and, at times, stirred by the presence, the memory or the fortunes of the loved, sweeps over the soul in mighty waves of tenderness. Ambition, whether it “blows through bronze or breathes through silver,” rouses not by constant, but by intermittent inspiration. The soul is not always, or equally, fired by its great enthusiasms. So with the fiercer impulses. The passions ride, Valkyr-like and in gusts, across the soul. Anger blows through it in hot blasts, with proportioned climax and subsidence. Hate, even when directed to an object of fixed repugnance, sometimes slumbers, and again surges across the soul in resistless, yet rhythmic, torrent.

But not only is the mind rhythmic as a star in its general orbit of growth, but, in its movement

along that orbit, it offers a beautiful parallel to the rhythm of the plant. The mind does not, and cannot, grow by the simultaneous development of all its faculties, but pushes forward first one faculty and then another, as the plant pushes forward first one side, then another, of its growing stem. There is even a certain natural and harmonious order of development for the different faculties, childhood for observation, youth for imagination, manhood for reasoning and reflection. But even after the common maturity of all, the alternation of their growth continues by the necessary laws of mind. From the study of human nature in senate or forum, the mind turns naturally to—

“The love of learning, the sequestered nooks  
And all the sweet serenity of books.”

In reading, the mind has the same craving for rhythm, which itself is rest; and, after following the packed thought of Spencer, the philosophy of Mill or Arnold, the sweet seriousness of Fuller, or the sombre eloquence of Hooker or Jeremy Taylor, we turn to drink and drink again of Emerson’s universal waters; to see the golden and god-like images of Plato’s thought spring from the homely and Silenic sculpture of his dialogue; to hang on the words of Socrates, till, like Alcibiades, we needs must “stop our ears and flee away as from the Sirens, lest we should sit down beside him and grow old in listening to his talk.”

From these again we turn to the strange

prose-music of Sir Thomas Browne, or the dainty and infinitesimal pomp of Herrick; or, if—

“Wandering lonely as a cloud, . . . .  
In vacant or in pensive mood,”

we gaze with Wordsworth on the

“Host of golden daffodils,  
Beside the lake, beneath the trees,  
Fluttering and dancing in the breeze;”

and let them—

“Flash upon that inward eye,  
Which is the bliss of solitude,  
Until our heart with pleasure fills  
And dances with the daffodils.”

If sad, we turn to the rich melancholy of Lycidas, to—

“The rathe primrose that forsaken dies,” . . . .  
“The cowslips wan that hang the pensive head,  
And every flower that sad embroidery wears.”

And, since it has been beautifully said, that “nature always wears the colors of the spirit,” we may bid our—

“Daffodils fill their cups with tears,  
To strew the laureate hearse where Lycid lies.”

If yet differently minded, we may bathe in the celestial beauty of Shelley, till our—

• • • “Soul is an enchanted boat,  
Which, like a sleeping swan, doth float  
Upon the silver waves of his sweet singing.”

Or else we may link arms with Tennyson, and go with him to—

• “Read and rhyme in solitary fields,  
The lark above, the nightingale below,  
And answer them in song.”

Or reverting to the poet's poet, we may muse with Hobbinoll on "wasteful hills" and see—

"Calliope with muses moe,  
Soon as his oaten pipe begins to sound,  
Their ivory lutes and tambourines forego,  
And, from the fountain where they sat around,  
Renne after hastily his silver sound."

Or if books tire as sometime they must, then be a "lover of uncontained and immortal beauty;" go with Emerson, who fits all great things, to Nature; to the woods, "those plantations of God, where is perpetual youth, where a decorum and sanctity reign, a perennial<sup>1</sup> festival is dressed, and the guest sees not how he should tire of them in a thousand years!" Study with him the "succession of native plants in the pastures and roadsides, which makes the silent clock by which time tells the summer hours!"

Turn your face up to the wonderful dome of Day, with its "tent of dropping clouds," to the pavilioned Night where "all the stars make gold of all the air" to the "azure sky, over whose unspotted deeps the winds forevermore drive flocks of stormy clouds and leave no wrinkle or stain!"

Yet even from the infinite inspiration of nature, the mind in time must turn, not from fault or flaw in her, but from the mind's necessary craving for the rhythm of change. Each sense and faculty is a vessel which cannot be more than filled without overflowing, and must be emptied before it can be filled again. So,

after protracted exercise or enjoyment in travel, art, literature, the mind overflows, and can hold no more. The most spacious thoughts, the noblest verse, the loftiest ideals of beauty, in nature, music, poetry, art, morals, religion, no longer strike or hold the mind. Thus the mind as a whole refreshes itself by the double rhythm of variety in action and total rest, and each faculty rests while another is active. So that the whole complex movement of mental growth is made up of rhythms, each faculty growing by pendulum-like swings from activity to rest, while the whole mind pushes along a rhythmic orbit of development and decay, by a movement which, like that of the plant stem, by urging on its separate powers successively and not simultaneously, results in constant and rhythmic oscillation across its true axis of growth. Compounded with all these regular rhythms of mental development are lesser and irregular ones, following bodily health or sickness, mental equanimity or anxiety, excessive use or disuse. Extraordinary stimulus, too, a superb occasion, the heat of intense solitary thought, the friction and flash of antagonism, the dazzling fence of debate, the quick thrust and parry of legal controversy, forces the mind, makes it think easily, nimbly, holds it to the point, gives fitting and splendid drapery to its thought, fills it with images, makes it crystalline, imperial.

Learn in another way the inherent rhythm of mind — through her products — by which alone

she is made known to us. As all the simple underlying emanations from matter, light, heat, electricity, move in waves, so the products of the mind are rhythmic.

All speech is rhythmic; accent and stress is what gives the spoken sentence piquancy and power. Every accented word has itself a double rhythm of cadence and stress. Every clause has in it many musical notes. Every sentence moves to its climax by progressive shocks of emphasis, and, in crude or perfect fashion, is built in harmonic proportions. Each sentence is a fleet of merchantmen ready for a tow. Prepositions and conjunctions are hawsers to tie them together, adjectives are but flags to bedeck and draw the eye, but nouns and verbs are heavy with cargo, and in their holds are packed the real riches of thought. These are the electric jars where power is stored, and from them it is transmitted in shocks, rhythmically.

Music is professedly rhythmic, but an opera, symphony, oratorio, is great as it combines the rhythm of single notes or instruments in proportioned cadence.

Eloquence is electric, like the shock from a battery. The orator in his persuasions, the lawyer or statesman in his argument, is rhythmic. He approaches it from afar, warily, and from common ground with his hearer. He assaults and then withdraws, chooses a new point of attack, gathers strength with each recoil, beats down opposing facts by alternate blows and

rests, hurls at them wave after wave of metaphor, logic, eloquence, reserves himself always for his climax, at last brings up all his reserves, and storms the citadel.

Poetry is rhythmic—fine prose no less. Tacitus, in the very first line of his story, fell upon a verse; and Cicero, declaiming for a poet, found his first sentence a perfect hexameter. In that wonderful book, *Lorna Doone*, Blackmore breaks again and again into unconscious verse. Milton never struck a diviner harmony than do the prose-poems of Sir Thomas Browne. “Give me health and a day,” cries Emerson, “and I will make the pomp of emperors ridiculous. The dawn is my Assyria, the sunset and moon-rise my Paphos and unimaginable realms of Faerie; broad noon shall be my England of the senses and the understanding; the night shall be my Germany of mystic philosophy and dreams.” What music ever surpassed this in rhythm!

If, then rhythm, both in movement and development, is the law of nature and the individual mind, is it not equally the law of associated mind; of communities, states, civilizations; of the unfolding of literature, science and the arts; of the mighty currents of trade, of the great flow of opinion from age to age? Like the stars in eternal procession up the sky, or those strange moons of Mars, which pass through all their phases before our eyes and in a single night, so, one by one, the nations of the earth climb their

zenith and decline, in rhythmic path of waxing and retreating splendor. The pomp of Assyria, dark Egypt, with mystery of sphynx and pyramid, Greece, with white limbs and unsandaled feet, profiled, like her Parthenon, perfect against the centuries, Rome, mistress of dominion ; states and empires since—Germany, the nurse of learning, England, of philosophy and the senses, America, dowered with the priceless trust of freedom—all have passed, or are passing, through their cycle of development and decay.

But a nation's progress, whether towards greatness or decline, is not constant, but fluctuating ; even in the glorious days of Greece she is brought to straits, when “Leonidas and his three hundred martyrs consumed one day in dying, and the sun and moon came each and looked at them once in the sharp defile of Thermopylæ.” The same of Rome ; Hannibal knocks at her gates in midst of her growing power, while Trajan, Aurelius, Julian break with transient splendor the days of her decline. So, for every nation, Austerlitz leads up to Waterloo, and Jena is avenged by Sedan.

The story of literature is the development by cycles, by alternations of barrenness and luxuriance, by rhythmic recurrence of splendid epochs.

The age of Chaucer is followed by that of Shakespere, then of Milton, of the Restoration, of Anne. Each period has its central figure, about which all the others cluster, and, to and from that central figure, each has its more or

less rhythmic progress, climax and decline. The tide, which rose high in Wickliffe and Chaucer, gave place to the refluent waves of Skelton, Wyatt and Surrey, then swung back through Spencer and Marlow to Shakespere, and slowly ebbed away through Jonson, Fletcher and Massinger.

So, too, there is a rhythmic progress in the character of literature, which, in cyclic fashion, repeats itself with different peoples. Eschylus, Sophocles, Euripides typify a transition, which was roughly followed by Corneille, Racine and Victor Hugo, by Shakespere, Massinger and Congreve. In each case—speaking in a broad way—the earliest writer has greater boldness of wing, fire and flow of imagination; the second draws the gentler passions and has a correcter taste; the third balances, writes in epigrams, over-refines.

So each literature has its oscillations peculiar to itself, as the swing from the exuberance of the early Elizabethan, from Marlowe and Shakespere to the severer harmonies of Milton; again, at the Restoration, from the licentious wit of Wycherley or Congreve to the elegant reserve of Addison, the formal style and polished epigrams of Pope.

As with literature, so with the arts, architecture, painting, sculpture. They appear and disappear, wax and wane, in periods. Thus architecture, in its three classic orders, the Doric, Ionic, and Corinthian, passes through

essentially the same rhythm of development, from severity to grace and at last over-refinement, as in the three leading types of modern architecture, the old Gothic, the Decorated and the Perpendicular, typified in the Cathedral at Durham, the Abbey at Melrose, and in Roslyn Chapel; and this cycle of development will be seen to curiously correspond with that of literature.

Again, civilization, like the mind, is rhythmic, in that it pushes forward and develops first one set of powers and then another, and hence its progress is ever rhythmically oscillating, like the growing plant, in a complicated spiral about its real axis of development. An age of observation, of patient gathering and noting of facts, is succeeded by an age of reflection, in which facts are compared, analyzed, classified, set in order around principles, and brilliant and profound truths drawn from them.

So an age of criticism and skepticism follows an age of faith, an age of metaphysics is chased by one of materialism, Kant and Hegel by Comte and Mill.

The same rhythm holds in special lines of movement. Literature vibrates from luxuriance to purism. Architecture becomes Gothic, enriches itself more and more, multiplies decoration, throws out flying buttresses, flowers with intricate and artistic forms, overloads itself, then turns back to the classical, reproduces the severe types of Greece and Rome, passes to the

Renascence. Music swings from the broad, strong tones of Handel and Bach, to the delicacy of Mendelssohn, the subtle, haunting, many voiced moods of Chopin, the intricate ornamentation of Rossini; then breaks off, and welcomes the severe harmony, the unity, the ennobling and spiritual beauty of Wagner.

The progress of Science is by successive oscillations from the deductive to the inductive. Aristotle treads on the heels of Plato, and Bacon puts to rout the speculations of the Schoolmen.

The progress of political opinion in England, France, America, whatever be the names of parties, is by constant and rhythmic vibrations from liberal to conservative, and back again to liberal, with even a tolerable uniformity of period. In our own government, whose type is distinctly planetary, with municipal governments revolving about the state, and both circling around the federal as their center and sun, there is the same balanced rhythm between the opposing forces, centralization and dissolution, as is seen in the solar system, and from period to period there has gone on a constant and shifting oscillation from one extreme towards the other, up to Jackson's time swinging slowly towards enlargement of federal powers, then more and more rapidly towards the doctrine of State rights, till, by the crisis of civil war, the pendulum sharply swung the other way; while today in the late decisions of the Supreme Court of the United States, and in the growing public demand

for the right of the State to prohibit the sale of imported liquor, as part of the local police power, is seen again the beginnings of an opposite movement.

Religion in all ages has moved along a recurrent path of excesses to a crisis, ending in reform. Brahminism has yielded to Buddhism, Paganism to Christianity, Romanism to Luther. So, all great moral and religious enthusiasms, as the spread of Mohamedanism, the rise of the crusades, roll in billows over the world.

The currents of trade, commerce, finance, are distinctively rhythmic. The values of things, of wheat, corn, stocks, have their great periodic undulations, reaching over many years, combined with lesser rhythms of monthly, daily and even hourly variation. The flow of money from the east to the south and west in the fall, and the counterflow of the great staples, corn, cotton, wheat, to the east, have a definite and recurrent path and time. The contending forces of supply and demand are continually disturbing the existing equilibrium of industries, attracting capital and labor to those businesses where consumption exceeds production and where prices are high, and, by that very act, crowding the business thus selected, bringing about an excess of production over consumption, and thus again lowering the price. Great commercial panics have a general periodicity, in England of ten years, in America of twenty; and their approach is heralded, according to an acute French writer,

by six successive years of sharp demand for money, which in turn indicates over-investment and speculation.

Nor, holding bravely to our law of rhythm, need we be disheartened, if civilization be not always in the stress and thrill of onset, or, with all drums beating, pressing forward in victorious advance; for we know that, like the tides, it has its halts and seeming retrogressions.

Neither aggregate nor individual growth is a ladder of which every round is above the last, but progresses only by fluctuations. The latest speech of the great orator is not always his best; and the same of the poet, the thinker, the novelist. Yet each is still pursuing the rhythmic law of growth, and though the *Pickwick Papers* were not equalled by *Barnaby Rudge* and *Martin Chuzzlewit*, and though *Adam Bede* stood unmatched by the *Mill on the Floss* or *Silas Marner*, still the greatness of *Bleak House* and *Romola* was yet to come; and by and by, pricked by some great spur, the orator, the poet, the thinker, will mightily overpass all his previous limit of achievement. Two centuries passed after Chaucer before another great name was given to English letters, and yet, by and by, Shakespere followed. Learn patience, then, from Nature, who never is in haste. Think not ever that the best has been. Presently, from the deep places of the sea, one more royal than Shakespere will swing past you, thunderous,

and, far up the shore, will leave his lonely gauntlet, the wonder of coming time!

Thus we have imperfectly traced our suggested law of rhythm from matter through mind to society. We have seen that all nature, whether in its sweetness or terror, wooing or threatening, beats with unresting rhythm; that a liquid, struck, moves in waves, a solid, in atomic vibration; that mind and society, wherever touched, show themselves by rhythmic products, as ice, smitten, breaks into crystals, or the lark into music at the call of dawn.

Yet, so the wisest tell us, with the universe, even as with the ephemera, evolution must be followed by dissolution, the rhythm of life by the rhythm of death; they tell us that the time will come when our earth shall become like the frozen moon, and all things shall be wrapped, not in flame of fire, but in universal and over-coming cold; that, in consequence, all life shall dwindle and disappear, and man and mind, unfed by the solar ray, shall cease to act or be; that the universe itself is held together only by the equilibrium of attraction and repulsion; that the increasing resistance of the inter-stellar medium may slowly lessen the velocity of all planetary motion; that the attractive forces, being thus less and less opposed, may gradually gain ascendancy, that planets and satellites, thus brought nearer and nearer to rest, may be left unprotected against the in-drawing of gravitation; that moon after moon will be drawn back

into its original planet; planet after planet into its original sun, till at last all extinct suns and systems that are, are hurled with unimaginable shock upon their common centre, and the whole mass, gasified by the fierce impact, rushes back again to nebula and chaos! Who then can tell, if the stars must be put out, as the lights of the banquet when the guests are fled, and even the mighty pendulum of Time must at last beat itself still; who can tell if the universe be not already past high noon, and if the finger of Time be not already flinging backward shadows on the dial of Eternity?

Well, then, did the poet cry, as he looked out on the world of things:

“ Flow, flow the waves hated,  
Accursed, adored,  
The waves of mutation;  
No anchorage is.  
Sleep is not, death is not;  
Who seem to die, live.  
House you were born in,  
Friends of your spring-time,  
Old man and young maid,  
Day’s toil and its guerdon,  
They are all vanishing,  
Fleeing like fables,  
Cannot be moored. . . .  
Know, the stars yonder,  
The stars everlasting,  
Are fugitive also,  
And emulate, vaulted,  
The lambent heat-lightning,  
And fire fly’s flight.”

Amid all this flux of things, where, as Heraclitus held, "all things come into being, and forthwith cease to be," what wonder that the soul of the Oriental finds relief in the philosophy of repose! God at least, the All in One, is eternal; and, as in Wagner's great music drama of the Trilogy, through the evasive, aurora-like tremblings of the Fire-Motive, breaks the stately music of the Walhalla, so, through this shifting rhythm of things, sounds Arnold's noble verse—

"Never the Spirit was born; the Spirit shall cease to be never;  
Never was time it was not; end and beginning are dreams  
Birthless and deathless and changeless remaineth the Spirit forever;  
Death hath not touched it at all, dead though the house of it seems."



## JAMES ABRAM GARFIELD

*Memorial Address, September 27, 1881*

MR. PRESIDENT AND FELLOW CITIZENS—  
James Abram Garfield, the President whom we loved and whom the people chose, is dead. That life which we held so dear and had watched so tenderly, that life which stood almost for the country's life, was snuffed out like some brief candle of the night.

The nation has lost its chief, and today the whole world of business and of pleasure has put its shoes from off its feet, and stands reverently about the grave, holding the inverted torch. The bell, the solemn gun, the shut stores, the draped and mourning dwellings—all the outward trappings of woe only speak and poorly the heaviness of the heart.

Nor does America mourn alone. From the great governments of Europe, from Emperor and Queen and President and Pope and people, from the great and from the lowly, come noble and touching tributes and sympathy, while the flowers of England's Queen are on the coffin of our dead, and the mute masses of England's people bow with us in a common grief.

This is no ordinary spectacle. After death, if not before, oblivion claims most of us.

“we are as the blast,  
A moment heard and then forever past.”

Says the quaint Sir Thomas Browne: “The greater part must be content to be as though they had not been, to be found in the register of God, not in the record of man.”

To what does Mr. Garfield owe this exceptional and universal homage? Is it paid him as the President, as the statesman, or as the man? Our loss is too fresh to admit a cold analysis of his character, or to place him in history with the exactness of criticism. It will be for the best and noblest of the land to clothe his virtues in fitting drapery. Yet we are here not merely to anoint his memory with our tears, but to pluck a lesson, like a flower, to take with us from his grave.

As a President he was grave, dignified, noble. His advisers, led by a brilliant and distinguished statesman, commanded the confidence of his party and of the country. Through them he preserved dignified and friendly relations with foreign powers, economized the public funds, confirmed the public credit, exposed fraud and reformed abuses. In his brief administration he aimed to be the President of the whole people. Firm without obstinacy, recognizing all factions, attacking no one, but bold to defend whenever a right was attacked, he extorted the respect of his opponents, and won the love of his friends. In Southern policy he gave promise of being conciliatory without being weak, and generous

without ceasing to be just. In person approachable and kindly, his simple ways and life were not left behind him at the door of the White House, but he brought the man with him to the Presidency, and the people. North and South, Democrat and Republican, believed in him and were content with him. They find no spot in the seamless garment of his fame.

Yet the people do not mourn today chiefest their President murdered.

As a statesman he was solid, rather than brilliant; conservative, rather than bold; but, above all, true to his convictions and fearless in their advocacy. His intellect was of commanding order, massive, logical, trained. I need only instance that remarkable series of short and non-political speeches made before his election, to show the comprehensiveness of his grasp, the ripeness of his thought, the variety of his food. In truth “reading maketh a full man,” and what he had read he had not merely “tasted,” but “chewed and digested.” He was emphatically the scholar in politics. He knew

“The love of learning, the sequestered nooks,  
And all the sweet serenity of books.”

Not only from the great masterpieces of literature, but from many a wayside and forgotten flower he drew treasures which gave body and richness to his serious sentences. His fondness for the early English authors led him to express his thought simply and strongly in sturdy

Saxon phrase, never ornate, yet not wanting in appropriate and splendid imagery. He used illustration to illumine rather than to adorn. His sentences were massed in close array, and bristled with compact thought. They moved and stood with the solidity of the Saxon foot, rather than the elegance of the Norman horse.

Yet, great as he was, the people do not mourn today only their statesman dead.

After all, the lesson that he leaves us is not of Garfield the President or the statesman, but of Garfield the man. In him American citizenship had its perfect and consummate flower. Loyal and generous, he cut a kindness in stone, and wrote a wrong in ashes. Simple, kindly, affectionate, true—it is on the grave of the man that we drop our garlands and our tears.

When Socrates had drunk the hemlock and had walked about a little, and then lay down and death came, and Crito had closed his mouth and eyes—"this," says the loving disciple in his simple and beautiful eulogy—"this was the end of our associate; a man, as it appears to me, the best of those that we were acquainted with at that time."

Such a man was revealed to us by the fatal second of July, and the wearing, weary weeks that followed.

It has been beautifully said that even "in private places and among sordid objects an act of truth or heroism seems at once to draw to itself the sky as its temple, the sun as its

candle." How much more when the doer of the act is the ruler of a people! So Garfield grandly lived and grandly died, and the whitest blossom on the coffin today is his own modest, Christian character, which struck its roots silently and deeply in the cabin, on the tow-path, in the school and in the college. There he gat hold on the very foundations of power; and moving thus, what wonder that as he climbed height after height of fame and wrapped himself with glory as with a garment—what wonder that fifty millions of people "followed his steps with the rose and the violet."

"As a plant upon the earth," says Emerson, "so a man rests upon the bosom of God; he is nourished by unfailing fountains, and draws, at his need, inexhaustible power."

For us, then, the tears. For him there is no need to mourn. For him death is not an end, but a change, not a wall that stops the way, but a door that swings open on a landscape of immortal beauty.

Thou pure patriot, thou ripe scholar, thou sober statesman, thou gallant friend, crowned at once with the amaranth and the laurel, with death and with immortality, the finger on the lips and the mute emulation of thy virtues are thy best eulogium! We leave thee pillow'd in a nation's arms, not forgetting to utter, ere we go, the thrice-said burial-rite of the ancients:

Vale, vale, vale, nos te ordine  
Quo natura permittet, sequemur.



## SPEECH AT G. A. R. ENCAMPMENT

*Augusta, February 4, 1890*

Nearly a generation has passed since the war begun, a quarter of a century since its close. Many young men and women, now full grown, are entering on the responsibilities of citizenship, who never lisped the war songs, nor followed the dubious track of battle, whose hearts never rose with victory or sank with disaster. Others there are, who, though too young for service, yet in school or shop, by farm or fireside, hung upon the fate of your arms as Troy might do on Hector's. It is fitting tonight that these and all of us should sit at your feet and listen to the story of the saving of the Republic.

But to you who were actors, not spectators, who sprang from bench, and work, and study, stirred by the trumpet call of country — whose bed was too often the earth, and whose tent was the approving sky — to you, citizen soldiers of the Grand Army of the Republic, this is indeed a night of glorious reminiscence, when memory winds her awakening horn through forgotten chambers of the soul, and, like the sea shell held to the ear, reproduces with faint and mimic noise the story of a life lived long ago. Under the spell of memory how the old days come back. When upon the air, already charged as

from electric batteries, Sumter came, and the souls of men took fire, their thoughts and lives spread broad and deep, and deeds of inspired courage and passion came easy. Then the cry rang, "To arms!" and as with one mind a great nation weaponed itself for battle; war's stern and stirring music piped on every hand, files and squadrons marched and mustered in each village street; under fluttering banners long farewells were said, and men looked grave as they gazed for the last time on each other's faces, and then turned sternly to the front. Since that stirring time you have nearly swept through the orbit of a generation, and, with fitting rhythm, have swung back tonight to this place whence so many of you set out for the war. Not with full numbers now! for, one by one, they have struck their earthly tents, and marched on to that hither country where the soldier rests from fighting. Year by year on Decoration Day, with our reverent flowers we climb the hillsides where the sleepers now lie so thick that the graves seem almost to grow faster than the flowers which fill our hands. Yet, as once in the toss and flare of battle, so now in solemn peace, year by year you have closed up your thinning ranks and brought tears and flowers for the out-numbering dead. But even you may boast no monopoly of death. Soon or late he makes bedfellow with each of us. In waking and in sleep he shadows us, and comes unbidden, like Banquo even to the feast. If we face him

he still slips behind us, and the fleetest runner may not hope to outrun him.

I know you will bear with me if we turn for one moment from the memories of war, and, with shoes put off our feet, tread reverently the sacred ground of private grief. Heads which have grown gray in the public service, hearts very near to the soldiers of Maine and of the Nation, this very day are bowed and breaking under a close and double sorrow. Twice within a few brief days has thieving death slipped into their household, and each time stolen jewels. Today for the second time the great Secretary and his noble wife stand uncovered in the presence of their dead ; this time a daughter, whose kindly benefactions to the poor, whose devotion to charity and to the Church spread gladness round her, living, and left many to weep her dead.

Only a little time before, the mournful music had again sounded, and their elder son had been committed to the unreturning dust. To his father he was all which the tenderness of sonship implies, at once his right hand and his staff, adviser, companion, friend and confidant. He lived but for his father and to keep from him even the flecks of annoyance. The tale he begun to tell was always interrupted if his father spoke, to be rebegun only when his father had finished. The beautiful thing in it was that he did this not from awe or fear, but from the instinct of respect and love. Between the Secre-

tary and the eager, besetting public he stood, as the breakwater between the harbor and the sea, that in those still inner waters great thoughts, like ships, might ride un vexed.

He had a rare tact with men and an exquisite deference for women. Wherever he was, he never forgot that he was a gentleman, and his unfailing courtesy flowed, like the air, to all alike, to the child and the gray beard, to the humble and the high. Welcome to and gracing the most polished society, he never forgot that man was born before society, and humanity was broader than culture. His reading was wide and intelligent, his memory stored and responsive, his writing graceful and effective. In talk he had his father's fascination, and superadded somewhat of the appealing grace of a woman, calling for sympathy and love. At home he was charming and affectionate, and nothing can fill the widening loss to mother, and sisters, and brothers. Above all he moved through life with a rare gentleness. Though young in years he had almost a woman's thoughtfulness for others, and many an unnoticed deed of kindness will keep his memory green in sorrowing hearts. Soldiers as well as citizens have cause to remember him, for almost the last act of his life, before the fatal sickness overtook him, was to restore to an old soldier, under circumstances familiar to your presiding officer, the meagre pension which his years of service had earned, that he might pass his few remaining years in comparative

comfort. He went for this in person to the Secretary of War, and the latter gracefully wrote him that he had made up his mind to refuse his next request to prove that he was not irresistible; but he granted the boon so unselfishly asked for another. Sweetly must the sun have set on his dying bed, and on its beams he passed into eternal rest. There at the beautiful gates of the Valhalla his worth shall be warrant of his welcome, for he was kind to many, and he died loved of all. He was my friend, and I may not speak of him as I ought. If he had faults they were too few to tell, or only such as endeared him.

“Hail then and harken from the realms of help!

That still, despite the distance and the dark,

What was, again may be: some interchange  
Of grace, some splendor once thy very thought,  
Some benediction anciently thy smile.”

Soldiers of the war, the white blossom of sympathy springs easily from the grave, and gentleness becomes the hero like a flower. Shall we not then tonight suspend for a moment our festal wreaths while we send to the bereaved this soldier’s tribute for the soldier’s friend? But you, Veterans of the Blue, whose valor and sacrifices have given us this united country for which we speak—what shall we say of you?

“To say you were welcome were superfluous.  
To place upon the volume of your deeds,  
As in a title page, your worth in arms,  
Were more than you expect, or more than’s fit,  
Since every worth in show commends itself.”

Only this:—That whatsoever grateful words or willing hearts may do to welcome you, is yours. Nay, whatsoever else is ours of hospitality, or cheer or banquet, we make it yours. Ill fares it with the land you saved when your “worth shall not be warrant of your welcome.” Ye are the survivors of what is indeed, the Grand Army of the Republic. Fear not that with increasing years or lessening numbers your welcome shall abate. The great pines of the forest seem the statelier for their fallen fellows whom we miss, and grow in value with lapse of time. And so you wearers of the Blue shall, like the leaves of the Sibyl, but gather glory from your wasting numbers. You have a right to dwell upon your country, for you made it free, and on your own past for you made it glorious. Time was, when the nation stood at the narrow pass between life and death, and called her sons to save her. Maine did not lag behind, but sent forth her sons as the unnumbered pines shake out their needles to the gust. For four long years whenever cloudy heights were to be scaled, or death flashed forth from scabbards, Maine was there. From the opening battles of Bull Run to the passing of swords at Appomattox, the Maine troops held their way. When Grant burst, conquering into Vicksburg, and on the Fourth of July formed his troops in square about the Court-house heights, Maine was there. With Sherman when he sheared through the heart of the rebellion, and marched to the sounding sea,

Maine was there. In the death-swamps about Richmond, in the prisons of Libby and Belle Isle, Maine blood sank and Maine lives wasted; and at Gettysburg, in the critical moment of the war, when, on their own soil, the battle long hung doubtful, and hope was fast yielding to despair, when charge after charge had failed, and at last the whole fury of the rebellion swept round the heights at Round Top, Maine was there with Chamberlain and Howard, to turn desperate disaster into the ringing cheer of victory! On that day and those that follow it, the old America, the America of slavery and contested constitution closed its life. And by the Grand Army of the Republic the gates were swung open upon the America of the future, the America of freedom and increasing states and stars, and while with words we welcome you to this scene of reminiscence, in very truth and in a larger sense it is you who welcome us to this great country of the future.

When the soldier, on guard or picket, begirt with danger and with dark, all night long has outwatched the circling Bear, none know like you how he strains his eyes for the coming of the day, or, weary with the long day's march and fighting, how he longs to let slip his cares into the great peace of night. And yet, not morning, when flushed and jocund it comes on tiptoe over the eastern hills; not night, when she wraps herself about with the glory and gold of the stars, ever ushered in a transition of such

splendor as that which your valor offers the American people. Politically we are free. That taint of slavery is out forever. Forty-two states and stars already cluster on our banners. Territorially we are varied, fertile, exhaustless. In population and wealth we are moving rapidly forward. Industrially it were hard to set a limit to our possibilities. Sections and climates the most diverse, contribute their products. The North is pouring out its manufactures and its colonies, and the South, which has long lain fallow, has for the first time unlocked the secret of her marvelous resources. Externally there is no foe to vex, while, under the Congress of Nations, our commerce may fast stretch itself to new conquests in the rich regions of our own continent, long shut to us. Our tender sky of literature is slowly filling with constellations. Against the lyre of Tennyson we put the sweet reed-music of Longfellow, while Emerson is already immortal with Bacon and Browning in the Westminster of the skies. To all this you, the living and the dead, are welcoming us. To commemorate this fact, in the person of your distinguished Commander, the pines of Michigan have come nodding to the pines of Maine, and we give them welcome. Those that are gone beckon us forward, and blow inspiration back. May we learn from you, as from them, the lesson of chaste and sober living, of high aims, of the beauty of sincerity, of the infinite gentleness of heroism.

## MEMORIAL DAY ADDRESS

*Augusta, May 30, 1891*

War is essentially revolting. It sacks and burns and kills and from its very nature must do so. It obliterates art, blackens and defaces nature, depopulates and destroys cities. It devours wealth, piles up debt, drinks up the lives of the best and the bravest. It makes light of all the treasures of the past, ravages books, scatters great libraries, stifles literature, diverts the intellectual strength of the nation, from knowledge, to conquest and slaughter. Its very virtues are fierce and animal. That something in all of us which responds to the note of war, which is roused by the trumpet's blare, by waving banners, by the spirit-stirring drum, by the pomp and pride of armies, by the march, by the bivouac, by the battle's light, is, after all, the fierce brute within us, which stirs and growls, and would slip its leash and be appeased with blood. Great wars, therefore, the Persian invasions, the Punic, the Thirty Years' War, the wars of the French Revolution, of the Peninsula, of Franco-Germany,—great battles, Marathon, Agincourt, Hastings, Waterloo, Sadowa, Sedan,—great captains, Hannibal, Cæsar, Charlemagne, Gustavus, Marlborough, Wellington, Napoleon,

while they stir the blood, strike and fill the imagination for a space, yet live only in history, and get no enduring hold on after generations, even among their own countrymen. Undertaken either to effect or resist conquest, such wars, once over, the world breathes freer and sets to work to repair their ravages. A brilliant page the more in history, a deed or two of splendid valor worth recounting, another shaft or two to gleam in bronze upon the square,—over against them, blood wasted, homes desolate, treasure spent—that is the end. No hold laid on the deep and enduring things that move the world, nothing done for truth, justice, liberty or the rights of man. Small wonder, then, that no nation seeks to perpetuate but rather to efface the memory of such a war. Call up before you all the great wars of history. What one among them all, is commemorated by a national holiday, by gay regalia or reverent worship? Yet this America of ours, in its first short century of life has passed through two conflicts only, and each of them is already marked at the hands of 63,000,000 people, by national observance, by a day set apart, by business forsaken, by jocund or by reverent rites. Wonderful indeed is this? And yet more wonderful that it is the spontaneous doing of the people themselves. No ruler has commanded it, no edict has enforced, yet so peculiarly has it been the people's doing, so a part of the people's life has it become, that perhaps no man, now a listener, could say when

Independence Day was not celebrated, or could fix its almost dateless origin.

Our second great war closed, and not long after, in that sunnier South-land where our armies trampled their victorious way, and where too many of our glorious dead were left, some Southern women went to mourn their dead. The spring comes earlier there, and they had plucked the first spring flowers to strew the graves they loved, but when that was done, side by side with them, touching each other, even, in their sleeps, lay the undecorated Union boys, and with the quick, woman's tenderness, over these, too, the flowers were sprinkled. Our North was touched by the act and by its spirit, and when three years after the saving of the Union, a German private, whose name is lost, wrote to say that in the fatherland his people were wont in the spring to visit the burying grounds and place flowers on the graves of their friends and relatives, and that this might be a fitting way to do honor to the Union dead, that great citizen-soldier, John A. Logan, then commander-in-chief of the Grand Army, promptly designated the first Decoration Day, expressing the hope that it would be kept up from year to year, as long as one survivor of the war remained to honor the memory of his departed comrades. Sleep soft, gallant old hero, and have no fear! Their country and yours will never forget these glorious dead! A quarter-century has already passed since the order of your commander, and

every year, though your own ranks waste, your solemn ceremonial is kept by growing numbers, and long after the last comrade has gone to join his dead commander, when the last empty sleeve shall have told its story out, and the last blue coat shall have been folded away forever, while you reform your files upon the farther shore, our children's children shall still climb the hillsides, as today, and with reverent and loving hands, shall bring their tears and flowers for these outnumbering dead. This is the Nation's day, and the Nation shall guard it. Let stores be shut, let all noise of machinery be still, that nothing may stand between the people and their festival. Strew your flowers tenderly, proudly as well, let the nation's flag float everywhere, and you yourselves march blithely with the old step to the old tunes—Memorial it is indeed, but festival as well, for this our country was dead and is alive again!

Today once more the grateful season has come round, once more with our reverent flowers we have sought God's acres where the sleepers now lie so thick that the graves seem almost to grow faster than the flowers which fill our hands. Once more we have marched and laid our wreaths and gone our ways, and the exceeding and unique beauty of the observance has sunk into our hearts.

But after all, the question always recurs, why does this nation of peace, alone among peoples, thus celebrate and perpetuate its strifes? Why

does all the world else forget and America remember? To what is this deep difference due? Other wars have been as splendid, other captains perhaps as great, other victories as signal and complete. Other peoples are as grateful as we, are equally struck with bravery, stir as easily to enthusiasm. No mere accidents of time or place or circumstance have drawn this deep division.

We know at once that this difference must lie in some deep reality. However it may be for a time, great masses of men cannot be permanently held or moved by shows. We know too that it must be something fundamental, something that underlies common things, as the earth underlies all foundations that can be built; something too, common to all humanity, like the air; something at once elemental and universal, whose center is in the heart of things, and whose circumference touches every man that lives. No less a thing than this can hold enduring sway; before such a thing, when found, the whole world bows, makes holiday, brings garlands and worship. All acts done in such a cause are ennobled. All sharers in such acts do thereby "gentle their condition."

In nature nothing is common or mean, because each thing contains within it some part of that elemental and native beauty which make the world its slave. Are you a lover of this uncontaminated and elemental beauty? Then walk through the woods, those "plantations of God

where is perpetual youth, where a decorum and sanctity reign, a perennial festival is dressed, and the guest sees not how he should tire of them in a thousand years;" "study the succession of native plants in the pastures and by the roadsides, which makes the silent clock by which time tells the summer hours." Turn your face up to the wonderful dome of day, with its "tent of drooping clouds," to the secret night, pavilioned with gold and stars, to the "azure sky, over whose unspotted deeps the winds forevermore drive flocks of stormy clouds, and leave no wrinkle or stain."

In all this, indeed, shall beauty's infinite grace appease and feed the soul; but to the attentive mind she dwells no less in meaner objects. It is because of her presence that one never tires of the grey of the rocks, of the green of the grass or the trees. No landscape ever was, in sun or shade, but gave some hint of her immortal grace, and never does she appear to man twice in the same dress. Some part of her has passed into the quiet farm scene, into the cows, the flocks, the waving grain. The "frolic architecture of the snow" and frost speak of her, along brook and river she walks beside us, and the gleam from fountain and from falling waters is hers. The viewless envelope of air becomes blue and beautiful with distance, and with water everywhere she makes especial holiday. The wayside weed is as dainty as the rose. In common rock or marble the statue dreams, and waits the

master's hand to wake it into life. Even the stagnant pool, when touched with light, breaks into colors and proclaims its kinship with the rainbow.

So true is it of nature, everywhere and always, even as the poet says :

“Thou canst not wave thy staff in air  
Or dip thy paddle in the lake,  
But it carves the bow of beauty there  
And the ripples in rhymes the oar forsake.”

The principle of it all is that beauty — and the love of it — is one of the great primal realities of the world, one of the deep things on which the world and the spirit of man are built and whatsoever possesses it becomes royal, and in whatever object we find it we are in ecstasy, and fall down before it and worship it as sovereign.

So, too, when we pass from nature to man and the events of history, there are certain great primal and perpetual forces which underlie everything, which have lived since the world began, and have been working for the betterment of man. Like the great forces of nature, time neither adds to, nor takes from, their strength. They know no waste from use, no increase from exercise. They were from the beginning, and their sum then was the same as it is now. Conserved like force, their manifestations change, their nature and sovereignty never. There is in the affairs of men, a certain moral beauty, fitness, right—call it what you will—making itself manifest to men and to nations as truth,

justice, freedom. Sometimes as all these and more, and these are the kingly things, these are the things that move men, the only things really worth the having.

In all times and in all lands, the effort of selfishness, of greed, of corruption, of tyranny, has been to stop the way of these irresistible forces. The pages of history are red with such attempts and sometimes they have seemed to be successful. For generations, nay for centuries, men have shut their eyes and stopped their ears against them, and only here and there, a brave and lonely soul has fed the torch, and passed it on to the after generations, but whenever humanity has once turned its face towards them, they have shown themselves to be God-like, and have filled the souls of men with the divine ecstasy. Once having them, men will never let go their hold upon them, but will give up all else for them, strip themselves of wealth, of home, of friends, to have them ; if need be, they will fight for them, will even die for them, as did they who sleep in our soldiers' cemeteries, and we who live to enjoy what they have given us, will bless their memory for it forever.

It is with reference to these great and enduring things that the acts of men and nations are to be judged. No act done in their furtherance can remain ignoble, no sharer in that act, however humble, can ever be base or mean, for the stream of this great moral force has poured through him, he has become for the time

co-worker with God himself, and somewhat of the Divine must ever after wrap him round. All that man ever does that is worth the doing, he does by drawing to himself these unseen powers and losing himself in their resistless currents. When he does this, the action becomes memorable, a strange grace invests him, and he speaks and acts as if inspired by a God.

So is it with the thinker. Socrates stood for whole days and nights together in one spot, motionless, unheedful of weather, without food, without sleep, communing with himself, listening, as he said, to the voice of the God within.

Emerson says, "When I watch that flowing river of thought, which out of regions I see not, pours for a season its stream into me, I see that I am a pensioner; not a cause, but a surprised spectator of this ethereal water; that I desire and look up and put myself in the attitude of reception, but from some alien energy the visions come."

All deep thinking is lonely, rare as well, and the reward of vigils. Feed the soul only with the greatest things, with the sea, with the stars, with the streaming wind, with truth, then be patient and the God will come.

The life of the religious ascetic, of the hermit in his cave; of Stylites upon his pillar, is their homage paid to the same great law—a misdirected effort, by isolation from all little things, to get closer to the great things of earth, the heart of nature and the heart of man.

So the poet may sing sweetly enough on common themes, but it is only when he catches the great under-harmonies of nature, gives up his verse and himself to these wonderful world voices, letting them pipe through him, that he becomes indeed the wind-harp of heaven and like

“ Music by the night-wind sent  
Through strings of some sweet instrument,”

his verse arrests us, our very hearts dance to his piping, and we will leave all, forget all, and follow his divine song to the earth’s end,

“ Across the hills and far away,  
Beyond their utmost purple rim ; ”

nay, like the fabled Eurydice to whom Orpheus piped, back even from immortality !

So of the reformer, whose thought is stirred by the wrongs of his fellow-men, and who goes forth to uproot ancient evils. Invisible forces feed and nourish him, deep and secret springs of power are his, and, weaponed thus, he dares to speak the brave word today, though he face death for it tomorrow.

“ Before the monstrous wrong he sets him down—  
One man against a stone-walled city of sin.  
For centuries those walls have been a-building ;  
Smooth porphyry, they slope and coldly glass  
The flying storm and wheeling sun. No chink,  
No crevice lets the thinnest arrow in.  
He fights alone, and from the cloudy ramparts  
A thousand evil faces gibe and jeer him.  
Let him lie down and die ; what is the right,  
And where is the justice, in a world like this ?

But by and by, earth shakes herself impatient;  
And down, in one great roar of ruin, crash  
Watch-tower and citadel and battlements.  
When the red dust has cleared, the lonely soldier  
Stands with strange thoughts beneath the friendly  
stars."

So with the orator. It is only in those sublime moments when he sets his theme deep in the underflow of the silent world-forces, truth, justice, liberty, that what he says is worth the hearing, and his words move irresistibly. Then only does he forget himself and let his message to men speak through him; all mere rhetoric drops away from him, all tricks to gain applause are justly despised, and then all things do his bidding, all the deep moral forces that were from the beginning, and surge and play unseen about us, stream through the speech like music through the pipe; then, indeed, his utterance is golden, his language becomes picturesque and noble, his gesture fit, his thought crystalline and imperial, his whole speech "lyrical and sweet and universal, like the rising of the wind."

Such a man the imagination should enrich as if there were no other; to him memory should open all her cabinets and archives, science all her length and breadth, poetry her splendor and joy, and the august circles of eternal law; and this not because the moral power and splendor of his theme "stooped to him and became his property, but because he rose to it and followed its circuits."

But if all this be true of those who only think or sing or speak things, how much more is it true of the hero who does things? If it be brave and noble to write or speak for truth, for liberty, for the rights of man, how much more to peril friends, home, family, life itself, for their sweet sake? It is not the mere act of dying bravely that makes the hero, for that may be done under the hangman's noose, the headsman's axe, but the true hero is baptized by his cause; he is glorious because his cause is glorious. This it is that makes

“That swift validity in noble veins,  
Of choosing danger and disdaining shame,  
Of being set on flame  
By the pure fire that flies all contact base,  
But wraps its chosen with angelic might,  
These are imperishable gains,  
Sure as the sun, medicinal as light,  
These hold great futures in their lusty reins,  
And certify to earth a new imperial race.”

Such a hero unseen forces gird with power. “Nature bends her lines of grandeur and grace” about him, violets nod to him, the great hills beckon him, the rose is sweet for him, stars shine for him, waters flash and fall for him, and the approving sky seems to throw its whole magnificent arch for him alone.

Now in all these broad fields of power, there is no man so humble but he can bear his part. I hold that every man has in him certain reserves of greatness which can be drawn on when the

great moment comes. The divine soul which is in all, is also in every part, and can be made to respond to the wise and skilful touch, as music to make its way through the stops of a flute, or as light only is needed to reveal in every work of nature its elemental and related beauty. There is in every man, as with fine insight the poet has said,

“A seed of sunshine that doth leaven  
Our earthly dulness with the beams of stars,  
    And glorifies our clay  
With light from fountains elder than the Day;  
A conscience more divine than we,  
A gladness fed with secret tears,  
A vexing forward-reaching sense,  
Of some more noble permanence;  
    A light across the sea  
Which haunts the soul and will not let it be,  
Still glimmering from the heights of undegenerate  
    years.”

Without the cooperation of the people, no reform, moral or intellectual, was ever possible, and if there were not that divine something in every man which, when reached, recognized and obeyed the behest of a sovereign principle, that cooperation could never have been had.

But great masses of men, like iron, are slow to heat, and till they have been touched by some elemental flame, cannot be trusted to do the work of steel. Therefore it is, that with nations as with individuals, all the things best worth doing or thinking have been done in supreme and rare periods of moral or intellectual uplifting,

when some great baptismal flame wraps and purifies the nation, making dark things clear, and some great primal principle is seen stamped in blood and fire upon the people's heart.

Such times come, the souls of men take fire, their thoughts and lives spread broad and deep, and deeds of inspired courage and passion are easy.

And now we know why it is that while Europe is silent at Sedan and Waterloo, and her wars of conquest are left uncommemorated, yet for our own great War of the Rebellion, each year when the spring comes back, this whole nation of ours keeps holiday, and breaks into unique and universal flower-time to crown our dead who are no more. It is because our war was one of those baptismal times, when man got fast hold on realities, because our soldiers fought and died, not for things that live for a day, but for deep and abiding truths on which the world is built, for justice, for freedom, for the rights of man. Men commemorate and can never forget your deeds, because you harnessed yourselves to those irresistible powers, because those celestial-world voices sang through your sometimes unconscious lute, because something of that elemental surge flowed beneath you and upbore you to necessary triumph. Such moments make all that is worth the having in history one, all the past and all the future are focussed in the one sublime instant, and when the shining deed is done, you have linked yourselves im-

perishably with Thermopylæ and Marathon and Runnymede.

In a world where so much is fugitive, where the poppy of oblivion is so soon sprinkled over even noble names, where all things but come into being, and forthwith cease to be, happy are they, the living and the dead, who have passed through the gateway of imperishable deeds into the secure regions of immortality.



## JAMES G. BLAINE

*Memorial Address, January 30, 1893*

Four hundred years have just closed since Columbus opened America to the world, and while the eyes of all nations have been turned towards the noble ceremonials of that event, even in the expectant hush between the prelude and the pageant, there have sounded solemn dirges for the dead. While the frosts have yet glittered on our New England homes, Death, which knows no season, has found a time for harvest, and huge and golden grain has fallen beneath his sickle. Before the first month of the new century has closed, a loved and honored member of the Supreme Court of this State, a justice of the Supreme Court of the United States, an ex-President of the United States, another jurist from private life, versatile in the law, a picturesque and striking figure among the great generals of the war—all have passed over unto the greater number.

The Church, too, has been called to mourn her venerable Bishop, in whom all seemly virtues went hand in hand with a pure spirit and a noble eloquence. His consecration, his catholic spirit which outstretched all creeds, has made not the

church alone, but humanity, the better for his living. And now, as if all this would not suffice the greedy Harvester, comes this newest, most personal loss in the death of our neighbor and our friend, the foremost man of all his countrymen!

It is fitting that in this city, his chosen home, in this church of which he was for more than thirty years a worshipper and a member, this simple burial service should be said, this last loving tribute spoken.

Forty years ago he came to us from his native state of Pennsylvania, and in that time his growing fame has become the chiefest glory of our city and our State. He was but twenty-three years old when he established his home here in 1853, but those who knew him tell us that he was even then of striking presence. Slender and rather tall, attired in the fashion of the time in blue swallowtail coat with brass buttons, with bold, flashing eye and an eager courage of manner, endowed with an indomitable energy and an iron constitution that scorned fatigue, the seeds of a great future were already there.

Though his powers of oratory were of later growth, he had even then that alert and rapid mind, that quickness to comprehend, assimilate and reproduce, that irresistible charm of manner and that wonderful memory for facts and faces, which were the foundations on which he built his later fame.

Of his later life we must speak sparingly. This is not the time or the presence to measure coldly his achievements or his intellectual strength. Mr. Blaine was a many-sided man. Dead at the age of sixty-two, when he should have been at the zenith of his powers, he lived not long but much. Life is measured not by years but by achievement, and for nearly twenty years, in office and out of it, his has been the central figure of the Republic! Throwing himself earliest into the Fremont campaign of 1856, he stepped upon the stage of American politics at a time when great figures were traversing it, and when the passion of the play was at its height. Webster and Clay and Calhoun had indeed played their parts and gone, but redoubtable leaders filled their places; for the South, Davis and Toombs and Benjamin; for the North, Sumner and Fessenden and Hale and Lovejoy, Thaddeus Stevens, the great commoner, Crittenden, Bingham and Conkling, and between the two, Douglas and Winter Davis, and Chas. Francis Adams. The struggle over "Bleeding Kansas," had already fired the nation's blood, and the giant debate was not far away wherein Abraham Lincoln, as the then unknown champion of freedom, was to cross swords with the renowned Douglas in the eyes of all the land. The nomination of Lincoln, to whose support Mr. Blaine's personal influence brought part of the Maine delegation, his election, the secession of the South, and the inspired era of the war

followed fast on one another's heels. All of these he saw and a part of them he was.

Thrown thus into times which were themselves an inspiration, trained under the eye of that masterful leader, Thaddeus Stevens, listening to the fervid eloquence of Hale and Bingham, studying the classic orateness of Sumner, and the keen thrust and parry of Fessenden, equipped by nature, as he was, with stored and ready resources, small wonder that the youthful statesman (he was but thirty-two when he entered Congress) grew apace in power and effectiveness as a debater.

Bred first to the art of writing, his power of speech had remained unknown to him till, on his return to Augusta from the convention of 1856 which had nominated Fremont, the insistence of friends brought him to his feet to make report of the doings of that convention. Surprised and embarrassed at first, he advanced to confidence and even fervor at the end. From that time on he threw himself ardently into public debate. On the great questions of slavery he was early matched in the Maine Legislature with the most formidable legal mind then in Maine, Mr. Gould of Thomaston, himself a man of imperious intellect, who asked and gave no quarter in controversy, and Mr. Blaine had come off the admitted victor.

In debate Mr. Blaine was always a dreaded antagonist, never staying long on the defensive and terrible in attack. Quick to see and expose

the error or fallacy of an opponent, unquenchable in courage, swift and keen in retort, with wit, anecdote, illustration, history ready at call, full of resources and of unexpected turns and flashes which blinded his adversary, the ablest debaters felt the peril of his Damascus edge.

As an orator in the Senate and upon the platform, Mr. Blaine held and swayed his audience, not so much by the purely intellectual quality of his speech, as by the intense dominating personality of the man who spoke. In his extemporaneous speeches one will find no passages which could be singled out, like Webster's, for their incomparable splendor ; he had nothing of the subtle, intellectual quality of Calhoun, nothing of the philosophic sweep of Burke or the elevation of Chatham, nothing of Sumner's learning and orateness, nothing of Fessenden's passionless logic, little of the eloquence of Pinckney or Winter Davis, but his sentences were terse and strong, put plainly what he wished to say, and transfixed his opponent like a javelin. He seldom used mere graces of style, his speeches show little imagination or that poetic touch which is oftenest allied with eloquence ; he rarely condensed a whole argument into one luminous metaphor as did Bacon or Emerson, but he put his thought into speech so plain that all should see and carry it away, he overbore the opposing argument with facts, pouring these out sometimes in an impetuous torrent, till the hearer was fascinated, convinced,

compelled by the towering will-power of the man.

As a parliamentarian Mr. Blaine was unsurpassed, if not unequalled, in America. His presence was commanding, his voice resonant, his temper even. He was eminently courteous and fair, but he always respected the dignity of debate, and when his gavel fell, the most turbulent House knew it was under the sway of a master. His decisions were rapid and adhered to, and his instantaneous memory for precedent made it difficult to find him unprepared.

But whatever rank history may assign to Mr. Blaine as an orator or statesman, in one thing, at least, he towers head and shoulders above all who have ever lived in America, as an inspirer of enthusiasm, as the incomparable leader of men! No American ever attracted so strongly, and kept so long, the loyalty and love of such large masses of his countrymen. It may well be that we shall never see again in these prosaic centuries so much of the mediæval hero, such a belted knight among men. The people felt instinctively his sagacity to lead, his masterful resources, his intuition for their needs, his knightly courage, and, when he set his lance in rest, they followed him as the men of old might follow Launcelot or Richard, the Lion-Hearted, careless whether to the tourney or the wars.

Wherever he was, in the Senate or the drawing room, he was the commanding presence, and his overmastering personality laid a spell on

men. In conversation his eye flashed, the whole man kindled and became at once alert and intense. When he spoke, he spoke impetuously, at times imperiously, as a man may who believes what he says, and by the very intensity of his belief overbears opposition.

The closing years of his life were spent in literature and diplomacy, and, until the distressful strokes of fortune smote him so heavily, there is no period in his career so reposeful and yet so fruitful of greatness. Years and the soberness of power had brought him intellectual sweetness, a juster sense of the proportions of things, and something of that rare vision into the future which is statesmanship. To this period belongs his most enduring work. His literary labor is distinguished by its impartiality, by its just judgments of men, by its magnanimous tributes to personal and political opponents. His language is always fitly chosen and his style lucid and sonorous. In his eulogy on Garfield he has left us a classic, a very pearl of English, fit to rank with the noblest things of the masters.

All this while, too, was growing in his mind the great conception of Pan-America, of which reciprocity was but a phase, and by which the future will largely measure his creative work, the conception of binding together through commerce and friendship and mutual respect this whole continent of nations.

Here is the central thought and fruit of all

Mr. Blaine's life and genius,—his intense Americanism. Others have been as great and perhaps greater than he, in their several lines. Webster was the great expounder of the Constitution, Stevens the great commoner, Patrick Henry the great orator; Mr. Blaine was something of all these, but he was also something more than all of them—he was and will remain the great American!

But it is of Mr. Blaine the neighbor and the friend that we would speak the last loving word. Many-sided and magnanimous, he harbored no revenges, was incapable of malice and loved his friends. As a friend he was kind and sympathetic, he had a tender heart as a husband and father, to the poor his hand was ever open.

Like all great souls, he loved to drink from nature's imperishable fountains and would not willingly be long away from her and her deep refreshments. Walks by the streams and through the forests, more often in later years long drives past the changing charm of lake and plain and mountain, were to him an inspiration! In his last years he clung to his summer home by the sea, to which he turned each year with touching wistfulness, that its great waves and its salt, splendid air might bring some touch of healing to his wasted health.

But in the earlier days, before all memories of Augusta brought him the inexpressible sadness of a broken circle, he loved best to take his passing guest up the familiar hillsides of Augusta,

and point out where, below him, the valley of the Kennebec dreamed its dream of beauty, where the city slept, and the solemn river, and where his old home was, by the State House dome.

Many an hour and lovingly would he linger by these familiar scenes, and in the old happy days, before thieving Death had slipped so often into his household, when the plain old house, now mute, was filled with merry guests, and wife and cherished sons, now dead, and fair young daughters stood about him, and read or talked beneath the apple trees, it was, indeed, a gracious thing to see, and there was no happier home in all this land.

But now the latter days have come, when we must take leave of our friend, for he must go hence. Already his day is far spent; morning is over-past, the noon has slipped into the afternoon, and at the age of sixty-two, while his life should yet ride some hours high in the horizon, lo! the shadows gather, the great change is upon him, and painlessly, with one last bitter shudder of the riven tenement, Night takes him into her arms, and wraps him about with the softness and silence of her stars.

In the beautiful words which he himself spoke over the body of the dead Garfield: "Let us think that his dying eyes read a mystic meaning which only the rapt and parting soul may know. Let us believe that in the silence of the receding

world he heard the great waves breaking on a farther shore, and felt already upon his wasted brow the breath of the eternal morning."

## CHIEF JUSTICE WISWELL

*Memorial Address, June 8, 1907*

May it please the Court: At times we are strikingly reminded that close beside the borders of life, set with all its blooms, flows the river of death into whose forbidding waters no man may step and then return, and no man who has once entered may send answer back from the further shore. When it comes to one who is frail with sickness or weary with the hardships of life, the fingers of death are soft and even welcome. But when it overtakes, as it did here, the strong man in harness, it must give us pause in order that we may cast a glance at the life, at the character, at the career of him who has left us.

Chief Justice Wiswell passed from us in the full tide of life and honor. It is not here that any just appreciation in detail of his services, his public worth, or even his private character, be said; but we are met here as his associates and friends to place upon his grave the sweet tribute of friendly recognition. Of those nearer qualities and companionships which form so much of the sweeter aspects of life he was full, fruitful, yielding back in generous measure more than he could receive.

For many years he was my close friend, and

he was the close friend of many upon this Bench and in this auditory. We knew and loved those brave personal qualities which must endear a man to those who come in touch with him. He had a rare ingenuousness of spirit which added greatly to the charm which all felt in his personality. He was a true man, a sincere man, open, frank, almost like a child in his frankness of feeling and expression, his directness, his sincerity, his simplicity. His simplicity was but the insignia of his greatness.

In his work at the bar, where he had an extensive though perhaps not a commanding practice, and especially upon the bench, where of course in later years, we knew him best, he had the qualities, many of the qualities of a great judge. I think he was characterized deeply by a love for justice, a passion, innate, unobtrusive, but powerful for justice. And he had a rare faculty for attaining it in the given cause. He had, at the same time the gravest respect for law, and with him I think it may fairly be said it was justice informed by a knowledge of the law, and respect for law illumined by justice.

He had a singularly clear insight into the facts of a cause. He penetrated easily through the entanglements of fact. He saw his way rapidly and clearly to the end and did not hesitate to cleave to the very mark, either in pronouncing the principles of law or in reaching the just end. In his decisions, in his opinions, he made no aim at literary finish. His style

never flamed with the fires of imagination. But he had a power of almost crystal statement, of strong, vigorous logic, which enabled him to cut his way through unmeaning technicality down to the deep-lying principles of the cause.

He himself has perhaps best expressed his own view of the duty of the bench, and held up at the same time, perhaps unconsciously, a clear mirror of his own life and powers in the remarks that he made at the banquet given Chief Justice Peters, where he declared that the true office of the bench was the "search for fundamental truth." True it is, as this court so well illustrates by its own practice, that the search for underlying truth is the highest function possible to any tribunal. And I think it can be justly said, and that the members of the bar of this State and of the bench will concur in the saying, that his conscious effort was a search for the underlying truth; and when he found it he meant to hold it up and to sustain it against all odds. He did not suffer his mind to be swayed from it by aught else. He minded no popular clamor. He minded not the voices of the majority. He was content to dwell in the serene minority with truth and with the right. And that, may it please the court, in these days, I would suggest is the great and commanding feature of his life work and of his personal character. Aside from its endearing traits, aside from its personal charm, its sweetness, its attractiveness to friends, measured from the intellectual standpoint, I

believe the fearless courage of the man was the one central characteristic about which all else grouped and subordinated itself.

I heard the other evening an impressive address delivered before a dinner of the bar of New York by the retiring senior justice of the Circuit court of the United States for the district of New York, in which he said with great impressiveness and with great truth, that the final refuge of all rights of property, of all rights of the individual, was in the courts. They alone upbear the protecting shield of the constitution, and encroaching and pernicious legislation will, in the end, run riot, unless they finally interpose this sheltering arm. To their courage in opposing, if the truth requires them to oppose, the feelings of the moment; to their boldness in asserting the constitutional requirements and sustaining them, the people look, all men look for the final administration of this government.

And in these days when it is easy to be brave in the institution of measures that are sure to command the assent of the majority, when so often in public life men shrink from opposing what they fear they will be outnumbered in opposing, the bravery of the chief justice, the dauntlessness with which he hewed to the line as he saw it, is the trait I believe most needed and most lacking in public life.

He possessed it, he exercised it, and he did so to the end. And in placing before himself as a

lawyer that standard and ideal of the search for underlying truth, he placed himself in accord with that which every man in every calling must obey if he would attain any measure of greatness. Judicially, it is obvious. It is no less so in other arts, in other professions, in other careers. The man of science is no true scientist if he does not above all else place this search for the underlying truth, rejecting error. The philosopher works skilfully or unskilfully in proportion as both his analyses and his syntheses rest upon and reveal the underlying truth of things. And even the poet, with whatever sprays of fancy he may adorn his thought, fails as a great poet unless his verse is but the pipe through which the fundamental truths of nature and humanity may musically stream. It is only when he opens his verse so that the winds and the sky and the resounding sea may pour through it, even as music through great organ pipes, that he sings in harmony with those underlying forces which make the poem and the poet great.

In judicial life Judge Wiswell perceived these things and acted on them, and we are here today to do honor to what deserves honor, to that high, commanding hewing to principle and that dauntless courage which dares support principle against all odds.

And now, may it please the court, our sorrowful duty is ended. We await but the word of

the court, the word of his associates, the final word. I remember in the old Saxon story life was imaged to be the passage of a bird through an old Saxon banquet hall. When the logs were piled high and kindled, and the lords were gathered together round the banquet table, forth from the snows outside, a bird flew through the open door, tarried a moment, and flew away upon the opposite side. Its stay within was pleasant. For the moment it felt not cold or bitter winter weather. But the moment was brief. In the twinkling of an eye it had passed and its passage was from winter to winter. "Such," said the old Saxon bard, "such, O king, is the life of man on earth." But were it permitted us to have a wider knowledge and a deeper insight, might it not well be that our passage here was rather from an immortality that had passed through the shadows and unrealities of life into an immortality that is to come? There is not only exquisite poetry, but deep philosophy in the thought of the poet:

"Our birth is but a sleep and a forgetting."

But now today, in this belated spring-time, when the splendor is fast coming to the grass, the freshness to the flower, with hints and beckonings of immortality all about us, our feeling at the end in the death of our beloved friend, is a deep sense of personal loss. We can only say, at the last, and feel with the great Poet of the Lakes:

“The rainbow comes and goes,  
And lovely is the rose ;  
The moon doth with delight  
Look round her when the heavens are bare ;  
Waters on a starry night are beautiful and fair ;  
The sunshine is a glorious birth ;  
But yet I know, where'er I go,  
That there hath passed away a glory from the  
earth.”



## ADDRESS TO THE MAINE BAR

*Delivered at Augusta, February 13, 1907*

This is an era of agitation ; and from agitation, though sometimes excessive, progress results. We are here to assist and at the same time to temper by such wisdom and conservatism as we, the members of the Bar of the State of Maine, can bring, the path of that progress,—to see that reaction does not dip too far away from action ; and I think the members of the Bar of this State are deeply conscious that they are the ones who should feel, and keenest feel, the broad fact that there are times when the finest action is to refuse to act. There are times when the highest type of moral courage is a noble abstinence from action, when the easy path is that of restlessness ; and, in times like these, where the only virtues that are praised are the virtues of unrest, I believe it is one of the special functions of the Bar of this State and of all the other states to see to it that a wise self-control should govern their great influence. I am not, therefore, one of those who think that the normal state of society is that of unrest. There are undoubtedly activities which are normal, and which necessarily accompany the healthy and growing man, but there is also a morbid activity which is but

the restlessness of disease, or the inflammation of passion, or the easy yielding to those lines which are of least resistance; and in these days when there are silent revolutions, not one but many, in progress under our very eyes, when the most noted characteristic, perhaps, of the age, of this country at least, is the tendency to supersede all delegated authority, to reject the trained assistance of those representative men, who, if properly chosen may well be thought to stand for the better things and the wider knowledge of life—it seems to me, and I would venture to lay that suggestion before the Bar of this State, that our great influence—because in the aggregate it is of tremendous weight—that our great influence should be thrown on the side of a wise reserve.

Great reserves of power that are stored in the lakes most benefit the land when they are distributed through the rivers and the streams of delegated power. The great central reservoir, that power which ultimately reposes in the people, is to be used with a wise reserve, lest instead of irrigation we get inundation; and yet, though that be true, and though the forces of reaction sweep from one extreme always to the opposite extreme, it is equally true that we should not retard, but should continually endeavor to promote true progress. But true progress seldom lies in either extreme,—rather in that even path which takes its way undeterred by fear and regardless of consequences. I am,

therefore, not one of those who place too much faith in the constant necessity of change, either in law or in procedure. But yet that should not prevent us from keeping our minds clear and open to those reforms which do satisfy the reason,—those demands and those requirements and changes which the experience of added years has shown are useful and which open up wider paths for the better doing of those things that ought to be done.

Now, as I have suggested, there are three things which, to my mind, in addition to the other topics that have been here outlined during the afternoon and evening sessions,—three things, each of which, to my mind, would serve to better the conditions of legal practice, and I will venture to submit to you these three things, because all of them have been founded upon my own personal experience, and that experience, I have no doubt, is by no means peculiar to myself, but is shared with many of the lawyers here present.

In the first place, under our practice, after verdict, the case goes to the Law Court, either upon exception or upon motion. Whether it goes upon one or the other, the Law Court has power only to set aside the verdict rendered, and order a new trial.

I would beg the careful consideration of the members of this Association to another state of things which will be found to exist in the neighboring state of New Hampshire. Having had

occasion to practice under the procedure of that state (and under its statutes)—and I believe in all essential particulars its constitutional provisions are the same as ours—I suggest a careful study of the New Hampshire procedure in that particular, and its adoption in the State of Maine.

The point that I desire to bring to your attention is this: There a motion for a new trial as against the evidence can only be addressed to the presiding judge. I do not for a moment recommend any change in our practice in that respect. But when the case is closed, if, for instance, counsel for the defense believes that the facts, as proved up to that time, make no case in law, then he can move the presiding judge to order a verdict for the defendant. If that motion is denied, he takes his exception, and upon that exception he goes to the Law Court with his whole evidence; and, after full argument before the Law Court, if the Law Court in its judgment says that there is no case as a matter of law, then on this exception it exercises the power, at its option, not merely to order a new trial by the jury, but, if it sees fit, it directs final judgment for the defendant.

While I have not had occasion to test the converse of that practice, I fancy that under a proper case the same rule applies to a verdict moved in behalf of the plaintiff. Of course this would not so often occur.

Now that would accomplish what? In case

the Court exercises its power, and orders a final judgment, that of course prevents the case from being re-tried when the Supreme law tribunal of the State has finally pronounced upon it, and said that as a matter of law there was no case there.

I had the impression at the time of this address that the exercise of this power by the Law Court of New Hampshire was based in part, or in whole, upon statute. In order to verify this impression, I have written to one of the leading lawyers of New Hampshire and find that the New Hampshire practice rests but slightly, if at all, upon statute, but has been evolved by the court itself as the logical and necessary result of common law conclusions.

Such it seems is the understanding of the New Hampshire Bar, and this understanding would appear to receive the sanction of the Court from the reasoning applied in the case of *Ordway vs. Railroad Company*, 69 N. H. 429, where the opinion was rendered by the late Chief Justice Blodgett.

The line of legal reasoning on which the New Hampshire practice rests is simple, and would seem sufficient. If, when the evidence ends, whether at the close or at the end of the plaintiff's or of the defendant's testimony, it is found, as matter of law, that there is no legal evidence sufficient to sustain a verdict for the plaintiff, then counsel for the defendant moves that a verdict be directed in the defendant's favor, and

if this motion is denied, he takes his exception to the ruling of law, and if the Law Court on final argument decide that this motion should have been granted, it simply sustains the exception and at the same time makes good the doing of what should have been done below by ordering final judgment for the defendant.

In *Ordway vs. Railroad*, before cited, the New Hampshire Court thus answers any objection that the practice adopted would be an encroachment on the constitutional right of jury trial. It says:

“Nor” (in giving the effect of this method of procedure) “when the facts would not authorize the jury to find a verdict for the plaintiff, or if the court would set it aside if so found as contrary to evidence, is there to be apprehended any danger of encroachment upon the plaintiff’s rights, or abridgement of the prerogatives of the jury. Whether a verdict or non-suit be ordered, no right of the plaintiff is taken from him, if his rights be regarded in their just extent. He cannot rightfully claim a verdict of the jury if he fails to produce evidence which will legally sustain it, and it is only when he does so fail that he is precluded from submitting his case to their consciences; nor is there any violation of the salutary rule (which is nowhere given a more extensive application than in this jurisdiction), that to questions of law the judges are to respond, and to questions of fact, the jury, because it is purely a question of law whether,

upon a given state of facts, the plaintiff is entitled to recover."

At the same time, the New Hampshire Court, in its discretion, may and does direct a new trial by the jury if it deems that justice so requires.

The only statute in New Hampshire which seems to bear upon the subject, as I am advised, is the following, found in Public Statutes of New Hampshire, chap. 204, sec. 15:

"Upon the determination of the questions arising upon a bill of exceptions or case reserved, such judgment shall be rendered or order made at the law term as the case requires; and if judgment has been rendered in the case it may be vacated as if rendered by mistake, and such further proceedings may be had therein as to law and justice appertain."

It will probably be found, on examination of our own statutes, that power equally effective, so far as statutes went, has been conferred upon our own Court. If not, a simple change of statute would effect it.

The reform advocated here would seem, therefore, to be in the hands of the Court itself. There would seem to be no legal or constitutional objection to the adoption of this procedure by the Law Court of this State, while its importance seems to be urged by the logic of common law and as the only means of giving full effect and authority to the deliberate determination of the Law Court.

Now, under our practice, our Law Court not

exercising that power which it does exercise in New Hampshire, in one case where I myself was personally engaged,—and I use this merely as an illustration—the case came back and was tried before four different juries, and each time on motion the case was again taken to the Law Court with the same result, “Verdict set aside; new trial granted,” until finally at the fourth trial before a jury the presiding justice ordered a verdict for the defendant in accordance with the opinion of the full court in the same case delivered at the three trials previous.

MR. S. S. BROWN of Waterville: You say that was in this State?

PRESIDENT BAKER: That was in this State and in this county.

Now, to my mind, the question of reform in judicial or legal procedure is based upon this principle: That parties should have all unnecessary expense spared them. There was an expense that was not only unnecessary, but, as all unnecessary things are, wasteful. The final result was the same as if final judgment for the defendant had been directed by the Law Court in the first instance, as would have been done, undoubtedly, under the New Hampshire practice;—but yet both parties, plaintiff as well as defendant, were put to the great and needless expense of four jury trials and three arguments in the Law Court before that final judgment was reached, or could be reached under our statute. I commend to the consideration of this Associa-

tion the study and respectful recommendation to the Bench of the New Hampshire plan.

The second thing, which I also discovered, as one usually does, by personal experience,—in the United States Courts, after a final decision is rendered by the Court of Appeals, whatever that may be, that decision, although fresh from the pen of the Bench, must be held in abeyance for a certain specific time—I believe under the United States practice it is thirty days—during which time it is open to counsel on either side who may feel aggrieved by the decision to reconsider and reverse its own finding.

Now of course in the ordinary case that is absolutely useless, because, after the Court has maturely considered the case and reached the result which it desired to reach, it would abide by that result. It is not for the ordinary case, but for the extraordinary case that that ambulatory decision is provided, because in some cases the Court may have inadvertently fallen into error. It may be an error of law, even of fundamental law, and such an error as when brought to the attention of the Court will at once and necessarily be rectified, and the result reversed or modified. The same practice prevails in many of the states. To my knowledge, it does in New Hampshire, and I have the impression it does in Massachusetts.

Now I have this case in mind, where a decision had been rendered by the Law Court, a verdict having been obtained favorable to my client in

the Court below after a very extended jury trial. The case was taken to the Law Court by the opposing party on motion, and under the motion, no exceptions having been taken to the law,—at the Law Court the point was sought to be made that the verdict should not stand because the law would not warrant it, notwithstanding the facts proved at the trial, and assuming that they would have warranted the verdict as a matter of fact. The Law Court kept that case under advisement for I think about three years, and when it decided, sustained all the various legal contentions upon which the verdict was based except one, and that was the fundamental proposition of the whole case, and was based, as I had conceived, on practically a legal axiom, on a proposition so inherently simple and nondebatable that it was necessarily law. The Law Court, however, took the opposite view and said that the law was to the contrary, and as a result ordered a new trial.

Now the question which the Law Court had thus passed upon was either obviously right as a matter of law, or obviously wrong. It was an elementary proposition, and I discovered, while it seemed to me that the law was necessarily wrong, elementarily wrong,—I discovered that there was no possible way by which I could ask the Law Court to reconsider its own decision and submit for their consideration that, in our judgment, there had been an inadvertent mistake of law made.

And what was the result? The result was that the only method found possible was to retry the whole case. In point of fact, we succeeded in making an arrangement by which the evidence, the printed record of the evidence, should be taken as having been put in over again, thus avoiding the expense of all the witnesses being summoned again, and I made the same point as I had before in regard to the law. Of course the presiding justice over-ruled the point under the decision of the full court, as he was bound to do, and I asked an exception again and carried the case to the Law Court again on the same identical point; and after the fullest argument, and the fullest citation of authorities in that case, the Law Court of the State reversed its decision. And the late Chief Justice of the State, who had drawn the original opinion, which had been published in the books meanwhile, himself, and voluntarily, as I was informed by some of my associates upon the Bench, took upon himself the onus of drawing the reversing opinion, stating with a magnanimity of mind that stamped his greatness not only as a lawyer but as a man, that he had been largely responsible for the original inadvertence of the Court, for its original error, and he would draw the opinion frankly stating that fact, and the two opinions are now in the books.

Now this same Law Court would have reached precisely the same result, without embarrassment to themselves, without annoyance to the

profession, without unnecessary expense to the parties, had there been power given under our statutes so that that decision after being made could have stood for, say, thirty days, and within that period either counsel might ask the Court to reconsider any obvious error of either law or fact, then the Court might modify or reverse their opinion as they desired and no new trial would then have been granted. In that case, to further illustrate the hardship of the principle, had we really been obliged to go through an actual new trial, which formerly had occupied at least ten days, and was one of the hardest fought cases I was ever engaged in,—the means of my client would have been absolutely inadequate to have even thought of doing it, for it had more than strained his modest resources to provide the witnesses for the original trial and to maintain them at expense during the ten days of the trial. Now I earnestly suggest to the members of this Association the wisdom and the imperative need of a change of legislation which I think could be simply done and in the line with the precedents of other states and of the United States Courts in that particular.

There is only one other thing to which I desire to call the attention of the members of this Association.

I received a letter from a member of the Bench of this State the other day in connection with this meeting in which the learned judge stated that though he knew I was conservative

in my own views as to legal reform, he thought I must admit there were certain things which caused delay and entailed unnecessary expense.

One of those things, and the thing which to my mind would save the greatest expense in litigation, lies, it seems to me, in the absolute power of the Court itself, by rule which it should make, and which it seems to me ought to be made,—and that is the over-burdensome cost of printing a case, resulting from the manner in which it is done, from the looseness of the print, the small number of words upon a page, the spreading of those over a very large space, and the insertion verbatim of every question and answer, whether material or immaterial. A rule of Court that should require a given form, a given number of words upon a page, and should require, at least with proper reservations, all the ordinary testimony to be in narrative form, so that all the essential evidence could be served in compact form both to counsel and to the Court. Such a rule of Court, to my mind, would cut down by one-third to one-half the expense of printing; and, as is familiar to the members of the Bar, the cost of printing after an extended jury trial may often far exceed all the other expenses, including those of counsel, in the case. I respectfully suggest to the Association and to the Court the desirability of saving in that respect a wastefulness of expense.

Now, gentlemen, I do not and cannot forget in closing that this is an Association of the

members of the Bar. The distinguished judges of the Court are members of this Association *ex virtute officii*, and are always its most welcome guests when we can obtain their presence; but essentially this is an organization of the Bar; and does not the roster of their names alone, those who have graced this Bar, living and dead, bring its note of encouragement to us as plain members of the Bar of Maine?

I yield to no man in my estimate of the high duties and honors of the Bench, but I love to think them fully matched by the opportunity and career of a great lawyer at the Bar.

The voices which echo down the dim corridors of history, the trumpet tones that have daunted oppression and stirred the nations to liberty have come in surprising numbers from the master minds of the Anglo-Saxon Bar. Erskine, Grattan, Fox, Emmett and Burke in England; Patrick Henry, the Adamses, Hamilton and Sumner in America, to speak not of more recent names, are the men whose great hammer strokes have slowly beat out for us the divine, imperishable shape of human liberty.

Over against the career of a judge upon the Bench, I would set for a moment the career within grasp of a great leader at the Bar—self-respecting and never servile, wise and conservative in counsel yet courageous in his convictions both as to law and fact, proud of winning his case yet not dismayed by temporary defeat, setting store by the books yet setting greater

store by the power of original thinking and the luminous unfolding of legal principles which alone give value to the books, sullied by no taint of dishonor yet daring all things else in discharging his duty to his client,—all of us are justly proud to follow, *etiam longo intervallo*, such an exalted ideal.

I love to feel that the ambitions aimed at by a great judge upon the Bench and a great leader at the Bar are different indeed, but not in loftiness; that where they deviate, it is not like two ways of which one seeks the valley and one the height, but, rather, like ways which climb distinct yet kindred peaks, both towering into a rarer air. And so along the way, when we again press upward, now perhaps in some darkness, now catching the gleam of stars, we are proud to feel that the word which passes through the night from Bench to Bar, from Bar to Bench, from mountain top to mountain top, is not a cry for help, but the friendly hail of equals, each seeking a higher plane. I thank you, gentlemen, again. (Applause.)



## JOHN A. PETERS

*April 2, 1904*

One dead—a State in tears! Yet all the earth  
Drest for a festival! Could he come back,  
Think you he might not choose, himself, that June,  
The rose-appareled, deck his memory,  
Whose days, like June's, were dipped in splendid dyes?

Richly he lived. The streaming years that went,  
Were each a very Pactolus to him,  
And grains of gold ran, glittering, through his talk.

Joyously, too, he lived. No bitterness—  
But, as the robin doth with song the day  
Outwear, so with him, whatsoe'er he did,  
His spirit always sang.

Justly he lived. Facing, indeed, his truth,  
The lie, unspoken, died upon the lip.  
On his clear vision no one might impose,  
Who sought the law for malice or offence.  
Friendships he had, and strong, but yet no man  
Who lived, upon that friendship dared presume  
For favor, or to gain a wrongful cause.  
His gentleness did not o'er shallows run;  
Let but injustice raise her front, and then  
The sunny depths of his great nature stirred  
To awful indignation. All men knew,  
Instinctively, who in his presence were,  
Justice, with her white robe, did wrap him round.

Greatly he lived. Not sky, nor solemn stars,  
Deep woods vexed by no wind, nor aught beside  
Of high, appeasing beauty God doth show,  
Move more serenely in their ministries,  
Than this great Judge among his fellow men.

Calm in his own, respecting others' strength,  
Envy he knew not, malice could not know,  
Whose nature was all magnanimity.  
His rectitude bred no uncharity,  
Justice with mercy tempered was his creed,  
Human himself, he loved humanity.

Richly if he received, he richly gave ;  
Miser of words, but prodigal of thought—  
Which words must stand for, else remain but words—  
His phrase was terse and tense. His sentences  
Did not in open order march, but stood  
Serried and close, ranks full, for battle drawn.

Despite past triumphs of the common law,  
Full many a problem still were unresolved,  
But for some great deliverance, or some  
Illuminating phrase, which he has left.  
Men gladly glean where he did richly reap,  
And we, who follow after, are made proud  
By even one wisp of gold, if from his sheaves.

Yet even for him the end, as comes to all.  
His high and ministering office, where  
He bore himself so long and worthily,  
Freely he put away, and was content  
To rest awhile before the stream was crossed,  
Hail and be hailed of friends, and take his leave.

From dust—through glory—back again to dust !  
Wanting but this, the cycle to complete,  
A little room to lie, a little sleep,  
Then—swift surprise of immortality !

Even to the end, walking the sunset-path,  
Life but a mellow light from out the past,  
His glistening honors by himself put off,  
Naught to bestow, or crave—even thus, by some  
Blithe necromancy of his spirit, he  
Held all men to him as with hooks of steel.

The grace that was not grace alone, but strength,  
Unwounding wit, sun-lit philosophy,  
Deep knowledge of mankind— these all were thine,  
Departed Friend! Never again shall we  
Behold thy like! And yet, because we know  
The soul that was within thee hath but struck  
Its earthly tent, to pitch it once anew  
Upon those plains where camp the glorious Dead,  
We, who yet stay, and came today to mourn,  
Sprinkle, instead, June roses on thy grave.



# MEMORIALS



## ORVILLE D. BAKER

*Kennebec Journal, August 18, 1908*

The news of the sudden death of Hon. Orville D. Baker came as a great shock to the community. A man in the prime and vigor of life, the future certainly seemed to promise him fullness of years. His death removes from our midst one of our ablest and most prominent citizens. He was recognized as one of the great lawyers of New England, a man of integrity, loyal to his clients, strong in his friendships, and tolerant in all things. He knew how to give and take hard blows in any cause in which he was enlisted; but he never cherished unworthy resentments or carried away the scars of battle. Born and reared in Augusta, Mr. Baker was always intensely interested in all that pertained to the growth and welfare of our city. He was ready at all times and in all places, to champion her cause.

The removal of such a man from our midst in the very zenith of his strength and activity, is indeed a great loss to the community and one which is deeply felt by all our citizens.

General Baker was more than a great lawyer. He was a great scholar, a man of the broadest culture, and a conversationalist of rare brilliancy.

It was in the quiet of his own home, which after the death of his father he always maintained in this city, that he was seen at his best. There, throwing off the cares and worries of his busy professional life, he took a keen delight in the society of his friends, finding a peculiar pleasure in those whose tastes, like his own, ran in literary channels. With his rare grace of diction, and his keen analytical mind General Baker, had he devoted his life to letters, as he did to law, might have won even greater laurels in the field of authorship.

He had in a marvelous degree, the power of mental concentration, which enabled him to assimilate rapidly and clearly the details of any subject which engrossed his attention. He had a wonderful capacity for hard work, and was equal to long sustained effort, that would have been impossible to a man of less physical and mental vigor.

But after all, perhaps, the most striking thing about him was the lightness with which he apparently bore the many and exacting cares of his busy professional life. The face he turned to the world was always a genial and smiling one. If he had worries, he certainly was master of the art of concealing them from his associates. He rarely talked shop with his friends, apparently finding a keen zest in the discussion of topics outside of his legal activities. He was an orator of rare gifts, with a strong personality, a wonderful command of pure English, a pleasing

voice, and rare power in marshaling and presenting facts. He was also an after-dinner speaker of exceptional brilliancy, and one who took an unfeigned delight in the bonhomie of such occasions. The people of Augusta will unite in mourning his loss.



## ORVILLE DEWEY BAKER

*Maine Farmer, August 19, 1908*

Orville Dewey Baker of Augusta died instantly last Sunday evening of heart disease, from which he had been suffering for some time.

Mr. Baker was born in Augusta and would have been sixty-one years old next December. He was an only child and was never married.

His father, Joseph Baker, himself a lawyer of exceptional ability, early designed for his son that profession. Orville Baker graduated from Bowdoin College and the Harvard Law School and then began the practice of law with his father. His success was immediate and continued in ever increasing measure to the time of his death. He had a wonderful mind in a magnificent body, and early made his chosen profession his chief object in life. For him, but two things were really of importance: His work which he loved, and the recreations he felt necessary to maintain his health. He had no diversity of occupations whatever. As he had chosen the law for his life work, so he made it such. His life work, the law, was always first, everything else came afterward. He might have made a great success in political life, for he would have adorned any position; but the only

public position he ever held, that of Attorney General, was distinctly in the line of his profession. He might have made a great success in business, but as he had chosen the law, so he made it the end and aim of his working life. To this singleness of purpose, may be attributed his pre-eminent successes.

As Attorney General, while still a young man, he made a State reputation for himself by winning, for the State, the conviction of Stain and Cromwell in the celebrated Barron murder case. His victories as counsel for the leading individuals and corporations of the State have been so many and so signal that he easily ranked as Maine's ablest lawyer, and as second to none in New England. In fact, competent judges have assigned him rank with the leading half dozen lawyers of this country.

As an advocate he was eloquent and convincing, but his great power was in his ability to concentrate all his powers on the case in hand. When he took up a case, there was for him, for the time being, nothing else whatever. He first learned his case thoroughly, both the ins and outs, then he learned his opponent's case. No detail was too small or too unimportant for his attention. His examination and cross-examination of witnesses was masterly. His knowledge of the law was profound, and his briefs were models of legal logic.

During the past six years, Mr. Baker won added honors by his services for the various

water companies whose properties have been taken by certain municipalities under the name of water districts. These were certainly the largest and most important cases ever at bar in this State, the six in which Mr. Baker was chief counsel aggregating nearly five and a half millions of dollars. These cases involved new legal practice for this State, and, in the course of these trials, chiefly through Mr. Baker's abilities, precedents and rules have been made which the courts, and the people, through their Legislatures, have established as marking the way by which equal justice may be done the people and such corporations.

Twenty-one months ago, Mr. Baker became suddenly aware that he was suffering from the fatal disease which caused his death, and that he could not hope for long life. With a courage that was sublime, after fifty-nine years of superb physical health, he faced the inevitable, and went steadfastly on with his work. He was in full possession of his marvelous mental powers to the instant of his death. In fact, he recently conducted the longest and most important suit ever tried in this State, that of the appraisal of the Portland water companies, at which, in his concluding argument, he spoke for four days with only the briefest notes. At the Bowdoin College Commencement in June, he spoke for the class of 1868, in reference to the present elective system, and his speech was the gem of the occasion.

There are many lessons to be learned from Mr. Baker's life, and the chiefest of these are the necessity, the value and the dignity of work. Blessed as he was with superb health, gifted mentally as he so wonderfully was, he relied only upon his personal attributes as tools with which to carve out success. He chose his life work and then with an eye single for that and that alone aimed for the topmost point of his profession. This he reached, and his untimely death loses to the State of Maine one of its truly great men.

He bore his honors modestly, his burdens bravely, and to us who were privileged to know him intimately, and so to love him, his early going to a better world brings the deepest sense of personal loss.

## AS A MAN AND LAWYER

*Portland Daily Press, August 17, 1908*

Well might the people of Maine say with one of old that a prince and a great man has fallen. Mr. Baker filled a great place at the bar, in politics and in a higher sense in the social life of the State. He was a strong man and personality, and his reputation made at a comparatively early age increased with every year of his professional life.

Those who knew him during the closing years of his career will remember the erect figure, the noble head crowned with gray hair, the musical voice, and the almost marvelous command of choice and vigorous English.

He delighted in a great legal battle. His mind was eminently judicial. He could see the strong as well as the weak points in the case his opponent would present, and he never made the mistake of undervaluing the opposing attorney. There were times when his presentation of a case became almost that of the court, but he never failed at the end to show the strong and as he felt dominating force of his own contention. He sometimes made his case turn on a single point, conceding all the rest to his opponent and then he became almost irresistible because he brought to the consideration of the

central point all his great powers and all his logic and eloquence.

He had a touch of the grand manner we associate now with the old school of lawyers and of gentlemen. He never abused an opponent, never for a moment failed in courtesy, and his cross examination of witnesses while searching and sharp never went beyond that point. His great desire was to establish his case by evidence and logic not to be shaken.

There were times when Mr. Baker became very eloquent. His sense of fair play and all that it should mean to all men was very high, and any attempt on the part of an attorney to take undue and as he felt uncalled for advantage, or to put a strained and needless interpretation on any portion of the evidence called from him hot words of strong and earnest condemnation made all the more stinging because he rested his case on the law and the evidence as a whole, and scorned to make a personal application.

His knowledge of the law was great, and he seemed to those who followed him through a case to have the authorities always at his command. He did not pile case on case or use words needlessly but his briefs deserved the name, and he was content when he had marshalled his citations and showed their direct bearing on the case before the court.

He was a great jury lawyer. He carried a jury with him to the conclusion he sought to reach largely because he was thoroughly con-

vinced himself that no other conclusion could possibly be attained, and that no other theory could be reasonably entertained. He presented a criminal case in an almost irresistible way. Circumstantial evidence others, lawyers as well as laymen, thought could be explained away he made a great chain, link fitting to link until he left the jury no other course than to find the respondent guilty.

His political addresses were of the same order. He was a man of strong convictions, but he never knowingly or willingly placed party before country. He was ambitious to win the highest success in his profession, but he did not show any desire to receive high political honors. He would have rendered splendid service to the State in any position, but he felt the high importance of his profession, and he was at once a safe attorney and a wise counsellor.

He was a great worker. He was not content to know much about a case in which he was interested, but felt that he must know all that any man could hope to know of it. He mastered a case in all its details, and when he stood before a court and jury he was ready to proceed.

His eloquence, and as has been said, there were times when he became very eloquent, was natural to the man. He had great command of the most vigorous English. He read deeply, drew from the great masters of the English language the best they had to give him, and then he charmed and convinced. He could be

sarcastic, he was witty, and his wit was like that of Thomas B. Reed, at times, but he never tried to show his learning, or to be eloquent for the sake of making a personal reputation.

He was honest. He did not deceive a client, but rather made the points of law and the matters of fact against a client more prominent at the counsel table than those in his favor. He discouraged litigation and felt the supreme importance of going into court, if at all, as a last resort.

A long succession of learned and distinguished justices of the Supreme court listened to his presentation of points of law with unflagging interest. A long succession of juries heard his marshalling of his evidence and his logical arguments and were convinced.

His nature was kindly. He did not court the favorable notice of the press or seek for formal and perhaps unmeaning congratulation, but he was grateful for appreciative words, and was great enough to say so. He was a manly man in all respects, a well-rounded man, a well-balanced nature, a brilliant intellect, finely equipped for the doing of his best every time.

He rose to every occasion. He was a large man, a man capable of taking a broad view of things. He was at once a student and a man of affairs. His was a very high ideal of the law; his a high ideal of life.

He was a brave man. He knew, it is said, that he could not hope to see length of years,

but he faced the white light of eternity and went straight forward to do his appointed work in this world. Higher courage no man has, higher courage no man ever had, or ever can have than this. He was his bright, true and manly self to the last.

And now this great lawyer, brilliant and eloquent advocate and leader of the people has fallen. He seemed to those who only saw him in court or on the street to be in the best of health and the news of his sudden death will be a great shock to his friends, to the bar, and to his fellow citizens.

He will be long remembered. He was of the goodly company of great lawyers and safe counsellors of the land, and he was in the line of succession to the great lawyers of the past. He loved the basic principles of the law, and felt that the end to be sought was fair play and justice. It is not too much to say that in all his professional life and in his life outside of his profession he believed in the square deal.

He was a great citizen of a great State. He loved Maine and had for his State ideals no less lofty than he applied to his daily life. Those who knew him the best will mourn for him the most and no higher tribute than that can be paid to any man.

No longer young, and yet with the snow-line still in the distance, he went out of life at a time when he had the most ample control of his great powers and when he might have taken for his

motto the words applied to one of the most knightly of men, "Always ready."

Sad indeed would it be if we were forced to believe that he has passed from life unto death; right joyous is the thought, the hope, and even the abiding conviction that he has but exchanged a lower form of life for a greater, and that to him came not the message of death, but the call of the Master of Life, "Come up higher."

## MEMORIAL SERVICES



## MEMORIAL SERVICES

Memorial services were held by the Kennebec Bar at the Court House at Augusta, Tuesday, December 1, 1908, before Associate Justice Whitehouse (presiding), Associate Justice Spear and Associate Justice Cornish, in honor of Hon. Albert G. Andrews, Hon. Lendall Titcomb, Hon. Orville D. Baker and Hon. Simon S. Brown, deceased during the year.

A committee consisting of Hon. Charles F. Johnson, Hon. Herbert M. Heath, M. S. Holway, Esq., Hon. George W. Heselton and Harvey D. Eaton, Esq., presented resolutions upon the death of Hon. Orville Dewey Baker, by its chairman, Hon. Charles F. Johnson. Eulogies were pronounced by several members of the Bar, that by Hon. Herbert M. Heath being nearly identical with his study of Orville Baker as a lawyer; page 11 of this volume.



HON. C. F. JOHNSON

*May it please the Court:*

On the morning of August 17th, 1908, the newspapers contained the startling announcement that Hon. Orville Dewey Baker, a member of this Bar, had passed quickly, without pain or lingering sickness, from life to death, not without some warning to him and to some of his intimate friends, but to most of us with no knowledge of his lessened hold on life.

Bench, Bar, and all classes of citizens realized that a great lawyer had laid down his work. Jurists and lawyers who could estimate the depth and extent of his legal knowledge, friends who appreciated his dignified, courtly manners and his engaging social qualities, clients with large business interests which depended upon his great legal ability for their protection all felt that they had sustained a great loss.

While stunned by the suddenness of the shock, all were grateful that if the end must come, that it was not approached slowly with gradually diminishing health and loss of physical strength and that his sun set amid the full glow of the gorgeous colors which his great intellectuality and his splendid physical strength had created about it. It was well that it was so, for who that knew him but would have shrunk from

contemplating that splendid form, erect in all its manly vigor, bowed and wasted by disease, that strong, clear, active intellect weakened and clouded by physical pain! As we knew him, so he was to the last, a meteor in the legal heavens, flashing its rays of brilliant light to the very end of its course.

In none was the sense of propriety more fully developed than in our friend, and none yielded more readily to that sense, so that much of the charm of his life and its success was due to it. I feel compelled by my appreciation of this, to attempt that which I know he would have me attempt, and, to avoid unstinted eulogy, but at the same time to pay that just tribute to his memory which truth and justice demand.

That he was a great lawyer all will admit, but his greatness as a lawyer was not confined to any special field, and in this he was particularly distinguished. Of a strong poetic nature, so that in conversation about common things, the mere small talk of the office or the social hour, he spoke the language of imagery and delighted in word painting; he was also gifted with stronger reasoning powers; but whether he addressed the jury or the Court, friends gathered at the banquet table, or large gatherings of citizens, his imagination never led him from the firm base on which his reason bade him stand. He was, therefore, always clear, and however much his ideas were adorned by figures of speech or beautiful words, they were not thereby

obscured, but rendered more impressive by the dress in which they were attired. The dry facts of a long hearing dealing with expert knowledge, long tabulations and wearisome details were made attractive and interesting by the dress in which he clothed them. Subtle reasoning upon great questions of law fixed attention because of the apt words with which it proceeded, but neither his facts nor his law were buried beneath his word painting, for he was not a dauber, but an artist who knew how to bring out the natural qualities of the objects upon which he exercised his art. He did not veneer, but brought out and developed the grains of the natural wood by his polish of words.

Fortunate in his natural abilities and in his early training under the special care of a fond and proud father, himself a great lawyer, he was also no less fortunate in the control of his great powers, so that all in him worked harmoniously and preserved their perfect relation. He, therefore, spoke easily, gracefully and eloquently, but always with good sense, and full comprehension of the fitness of things. He was an orator of a high order, but he never allowed this easy path to popularity to lead him from considering the sound reason of things. He preferred to exercise his great talents in the line of his profession rather than upon the platform or on the hustings.

How the dull air of many a court room has been enlivened and lightened by the brilliant words shot across it by him, true to the mark!

Our friend was more than a great lawyer, he was a great man, he loved good books, he loved the beautiful in art and in nature. He would have been eminently successful if he had chosen a literary career. Many of his speeches were gems of art, and his poem on Chief Justice Peters shows how strong the poetic nature was within him. Nature appealed to him as it does to all strong minds; he knew the songs of the birds, their habits, their seasons of flight and return, and he loved the ocean and his vacations by its shore. A walk with him would disclose how strong a tie there was between his great mind and the common things of life. He knew men, too, and none could weigh them more accurately than he. How his searching cross-examinations bore down the barriers behind which witnesses sought to conceal the truth, and how accurately he guessed at their motives and drew them out to view by his unerring knowledge of human nature!

Our friend also knew and practiced the courtesies of our profession, for he was by nature and training a gentleman. It is pleasant to recall his cheery greeting, his courteous manners. While in the heat of a trial he often spoke warmly and with strong convictions in defense of his client's rights, and was able to hold his own in the give and take of repartee, he always had himself under control and his language was uniformly courteous to opposing counsel and to the Court, without the display of any irritability.

Kennebec Bar and the State have lost a great lawyer, a dignified, courteous gentleman, many of us a kind friend whose genial manner we recall with pleasure, and in performance of the duty delegated to me by the Kennebec Bar Association, I offer the following resolutions:

## RESOLUTIONS

*Resolved*, That in the death of Hon. Orville Dewey Baker the Kennebec Bar Association has lost a most distinguished member, whose great learning and ability displayed in the whole field of practice of the law gave him high rank among the great lawyers of our State, whose natural eloquence embellished by learning and the grace of a charming literary style and strengthened by sound common sense and deep convictions always delighted and seldom failed to convince; whose dignity, courtesy and gentlemanly bearing made his presence everywhere pleasing and agreeable, whose extensive knowledge of the law and his love for and devotion to its practice with his high ideals of a lawyer's duty have added greater dignity and importance to our profession.

*Resolved*, That the Kennebec Bar Association is proud of his honors and his achievements and feeling itself fortunate that he was one of its members during the whole of his illustrious professional life, will long cherish the memory of the great legal mind, eloquent tongue and distinguished presence which so highly honored it.

MELVIN S. HOLWAY

*May it please the Court:*

Highly do I esteem the privilege of taking part in these solemn exercises devoted to the commemoration of the four departed members of our Bar but recently taken from us. Great and unprecedented in our history is this succession of bereavements and tragic in their suddenness were the deaths of three, one being that of Orville Dewey Baker, our distinguished leader. I knew him from my youth. I enjoyed his friendship for many years—our acquaintance grew closer as time went by. I found him always a delightful companion, a loyal and helpful friend, and his unexpected and premature death leaves me with the consciousness of great, irreparable loss.

The impression Orville Baker made upon me was that of a man whose rare natural powers were fully developed for the purposes to which he devoted his life. He made himself a great lawyer. In public life he might have been great; in literature, and possibly in other forms of art, he might have excelled. Like other great men his life showed constant growth until he attained the absolute mastery of his profession, and in full control of his matured powers with no decline towards old age and its waning

faculties, he passed away leaving as an enduring monument his record of splendid achievements. An only son of a distinguished lawyer, his training from youth was intended to fit him for distinction as a scholar, an orator and for success in the law. He has told me in recent months of the great debt he owed to his training in the Augusta High School under that distinguished teacher, Mr. Frank Waterhouse. Mr. Waterhouse made friends of his students, encouraged them in athletic sports for their suitable physical development. He made them feel ashamed of ignorance and inferiority. He was able to excite in them a keen interest in their studies and the desire to excel in whatever they undertook. From success in school, the position of a leader in his ever-loved Bowdoin College and in the Harvard Law School, and after a well-spent year in Europe, Mr. Baker entered upon the duties of his profession. Of his life-long devotion to his work, of his constantly increasing success we all know. He was a good son. The affectionate relations between himself and his father were peculiarly close. He always showed to his mother the greatest deference and highest regard; they lived until Mr. Baker reached the age of thirty-five years, and then in the same year both were taken from him. Mr. Baker always sought and was welcome in the best society, and doubtless owed much to the brilliant and able men and to the refined and cultivated women whose acquaint-

tance he enjoyed. Although the citizen of a small town, he saw men like Blaine and Morrill rise to distinction in the nation, and other of our citizens achieve triumphs in law, in public life, in great business enterprises, which could not fail to stir the ambition of a man of his unusual powers.

He achieved mastery of the arts of advocacy and a profound knowledge of the law. He was powerful in attack, stubborn in defense, tireless in his efforts and most thorough in his preparation of cases. His powers were such that he seemed to do with ease what others could only do with difficulty. With a great capacity for work and devotion to his chosen profession, with a love for the battles of the law, he went on from success to greater success and was long an acknowledged leader. He was happy, too, in his profession, believed it worthy of his best efforts and loved to labor for the interests of his clients.

He was a most companionable man. He loved his home, his native town, and had the genius which appreciates simple, everyday things, life in the open air, walks along the country roads and through woodland paths and viewing from some commanding height the varied beauties of the landscape. He loved to look often upon familiar scenes and find ever-new beauty therein. To him every sunset was a revelation of the beauty of the universe. He loved to dwell with the sound of the sea in his ears and pass his hours in watching its mighty and mysterious move-

ments. He loved the birds and to spend silent, patient hours in studying their beauties of shape, plumage and movement, in listening to their songs and calls and learning the natures of these aerial visitors. He loved his pets and other four-footed friends, and little children, and all these were attracted to him.

And above all he loved his friends; he liked to have them about him; he gave freely of his intelligence, his wit, the resources of his richly-stored mind, to the companions of his leisure hours. He delighted to fill his home with choice, rare and beautiful objects of art and to dispense refined and bountiful hospitality to his friends and associates.

While he had passed beyond the stage of loving knowledge for its own sake and did not occupy himself over-much with books, his interest in life in the great, varied, wonderful world was never more fresh and keen than when, at the climax of success, with the shout of victory ringing in his ears, the summons came for him to go. In the midst of the glories of mid-summer, at the close of a perfect Sabbath day at his beautiful home by the resounding sea, surrounded by loving friends and familiar faces, mercifully spared all suffering, he sank to rest.

He leaves to us who mourn the feeling that the memory of our acquaintance and companionship with him will ever be one of the choice treasures of our life.

## HARVEY D. EATON

Orville Dewey Baker was a great man. His tireless industry, his legal acumen, his commanding intellectual power were known and recognized of all. His genial and kindly qualities were equally strong. It was my privilege to know him as my personal friend and counsellor as well as colleague and opponent, and in all those relations I enjoyed from Mr. Baker such kindness and consideration as is only seldom shown, and made his sudden loss a personal grief to me.

## HON. W. P. WHITEHOUSE

On the fourth day of December 1883, almost precisely a quarter of a century ago, in this hall of justice which for more than forty years had been the principal scene of his forensic labors and triumphs, memorial exercises were held in the superior court upon the death of Joseph Baker, a distinguished member of this Bar, who had for many years been acknowledged as one of the most learned and accomplished lawyers and powerful advocates in our State. It became my sad privilege to respond to the resolutions then presented as an expression of deep sorrow for his loss and sincere respect for his memory. In his earlier life he had been a successful journalist, and had repeatedly been the recipient of political honors from his fellow citizens, but with these temporary diversions he remained constant in his desire and purpose to bend his mind to the philosophy of the law and make the practice of the legal profession the work of his life; and though it was then said of him that he "touched nothing which he did not adorn," yet like the fabled Antæus he seemed to draw invincible strength only when his feet touched the solid earth of his chosen profession.

Orville Dewey Baker was the son of Joseph and Frances Rogers Baker. His mother was a

sister of the famous Jonathan P. Rogers, a lawyer distinguished alike for his mastery of legal principles and his skill and power as advocate, who practiced for some years in Bangor as the partner of Edward Kent and afterward removed to Boston at the personal request of Daniel Webster, where he "died in comparative youth in the midst of a growing fame." The traditions of both the Penobscot and Suffolk bars have united in presenting Jonathan Rogers to the succeeding generations as a legal giant.

Orville Baker was endowed with intellectual gifts and powers of a very high order, and from his early childhood to the time of his entering upon the practice of the law, his academic and legal education, as well as his entire mental development, progressed under the constant supervision and vigilant care of his devoted father. The ripe scholarship which was the fruition of his course at Bowdoin College was succeeded by appreciative travel and study in foreign countries. With such broad and liberal culture as a foundation, he prosecuted his legal studies at Harvard Law School and graduated with a comprehensive grasp of the science of the law unsurpassed by that of any other graduate in that decade. He entered upon the practice of the law in partnership with his father, with a splendid equipment for the pursuit of the most imperial and exacting of all the learned professions, and he came *per saltum* into the front

rank of the best legal scholars and ablest trial lawyers of the State. I well remember the first important jury trial in which during the second year of his practice, he was put forward by the senior member of the firm to make the closing argument to the jury. With an orderly grouping of the relevant facts about each of the propositions, with much rhetorical adornment and elaboration, with caustic satire and glowing eloquence, the argument was pressed forward to its logical conclusion. Although in this first case the evidence was not accepted by the jury as sufficient to support the premises of the argument, the effort was recognized by all as one of distinguished ability and splendid promise.

“Then felt we like some watcher of the skies  
When a new planet swims into his ken.”

That a new and brilliant luminary had flashed into Maine’s constellation of the law was promptly recognized throughout the State. If any had lingering doubts at that time whether he possessed the practical wisdom, the correct mental poise and the intuitive sense of common right which are indispensable to the highest success in the profession, their doubts were promptly removed by rapidly succeeding efforts of his subsequent career, which abundantly fulfilled the brilliancy of early promise. Under the chastening influences of superior culture and the study of the masterpieces of English oratory, he avoided the excessive use of words of Latin

origin and "escaped the common perils of magniloquence." With a rich vocabulary of both Latin and Saxon words, his addresses disclosed no fixed preference for either, but he aptly chose the term which most exactly and forcibly expressed the pressing thought or dominant mood of the moment. He was also endowed in an eminent degree with the faculty of imagination which enabled him by striking illustrations to give vividness to every scene and increased power to the expression of every thought. The opening paragraph of his address at a recent memorial service may be quoted as at once an illustration of the elegance of his diction and the beauty of his imagery, and an expression of the infinite pathos of this occasion, as well as of that, when one in the full possession of all his faculties and in full tide and stress of his useful work, has passed away in the midst of his earthly years.

"At times we are strikingly reminded that, close beside the borders of life, set with all its blooms, flows the river of death, into whose forbidding waters no man may step and then return, and no man who has once entered may send answer back from the farther shore. When it comes to one who is frail with sickness, or weary with the hardships of life, the fingers of death are soft and even welcome, and draw one gently to repose. But when it overtakes, as it did here, the strong man in harness, it must give us pause, in order that we may cast a glance at

the life, the character and the career of him who has left us."

Another illustration of his figurative style may be found at the close of his argument in the proceedings by address before the Maine Legislature in 1891. "Now that the clamor of this great debate and cause will soon be still—as of old after the wind, the earthquake and the storm, there is to come that still, small voice in the conscience of every one of you which is to pass upon and decide this question. The State, no individual, is on trial here. Individuals may come or go, but justice and the State endure. Even fame is a candle almost as brief as life itself, and honor and disgrace alike will soon be put to sleep by the sprinkled poppy of oblivion. But there remains with us the majesty of the eternal justice."

"You are here in the broad and noble spirit of the old Roman Senate, to see that the Republic takes no harm. If you should omit this duty, if you should betray this trust,

' Not poppy or mandragora,  
Nor all the drowsy syrups of the world,  
Shall ever medicine thee to that sweet sleep,  
Which thou owedst yesterday.'

You are the watchers on the coast. Beneath you are the rocks. One fair ship, with its freight of talent and of promise, has just sunk before your eyes. In front, and far out at sea, stretching beyond the horizon's edge, through the stress of the dark and the night, down drives the

fleet of the future, straight toward the rocks which split and sink. Your vote must light the signal, for rescue or for ruin. The good ships wait for you. What shall the signal be,—false lights to beckon, or a beacon to warn and save?"

As a trial lawyer Mr. Baker did not rely solely upon the breadth and accuracy of his general knowledge of the law, or upon the fertility of his resources; but he subjected the details of each case to a thorough analysis and his preparation for trial was painstaking and complete. In presenting the evidence to the jury his method of conducting the direct examination of his witnesses was so gently persuasive and subtly argumentative as to avoid objection on the part of opposing counsel and when his testimony was closed, the probative force of every fact was understood by the jury, and often no closing argument was required. As a cross-examiner, probably no lawyer in the State was so greatly feared and dreaded by all witnesses who were tempted to prevarication and falsehood. Such was the merciless power of his sarcasm and ridicule, and his relentless pursuit of the witness from point to point, that the mental torture of his victim was often painfully manifest.

But however strong his personal conviction might be that no argument was necessary, he never faltered in his summing up to the jury in important cases, but with an accurate and almost intuitive perception of the legal principles involved, with a splendid analysis and marvelous

grasp of all the evidence, with superb expression and confident assertion, with splendid rhetoric and faultless logic, and with eloquence attuned to the general harmony of effect, he strove to carry conviction to the minds of the jury. In complicated cases, he stalked with aggressive courage across the devious ways of conflicting details of testimony and safely took the main avenue to the conclusion for which he contended. Several of his arguments before the law court were striking illustrations of the creative power and expansive force of the principles of the common law and their adaptability, in the hands of a master, to new conditions in industrial and social life. By thus aiding to establish what are termed new rules of law, he has made valuable contributions to the jurisprudence of Maine.

In 1885 he was elected attorney general of the State, and no lawyer in Maine ever came to that office with more admirable qualifications for the proper and successful discharge of its duties. In the prosecution of Stain and Cromwell upon the charge of murder, his closing argument was a masterpiece of analytical power and forensic oratory, rarely if ever surpassed in New England since the days of Webster and Choate. It is scarcely an exaggeration to apply to him the language recently employed by Mr. Dawson in describing Edmund Burke. "He lifted the most formidable burdens of thought with easy mastery, probing their profoundest depths with almost superhuman power and insight. When

once his imagination caught the flame, his whole mind seemed to flow, like molten ore. He touched the supreme heights of thought, of passion, of feeling, without an effort.”

“Across his sea of mind  
The thought came streaming like a blazing ship  
Upon a mighty wind.”

He possessed exceptional powers of mental concentration and long sustained effort, and with his great talents, keen discrimination, ripe scholarship and extensive knowledge, with his highly cultivated literary tastes and rare artistic sense, he could not have failed to achieve distinction in any department of intellectual effort to which the study of his life might have been devoted. But he wisely chose for his life work the study and practice of the great science of human rights and social tranquility. With an unsurpassed alertness of mind and imperturbable self command, he was admirably equipped for the contest of the forum and easily “beat a pathway out to wealth and fame.” He cherished exalted conceptions of the honor of the legal profession, the dignity of the law and the sanctity of justice, and never failed to maintain a respectful and courtly demeanor towards all incumbents of the judicial office. Throughout his professional career I think he never consciously rendered any service or pursued any course which was not in harmony with the ethical canons of the profession and character-

ized by good faith towards his opponents and associates at the bar.

In apparent contrast to the aggressive and controversial spirit of the court room, in all of his personal and social relations Mr. Baker was gentle and affable, kindly and unassuming. He was apparently undismayed by unexpected obstacles in the trial of a cause and when he left the court house, he seemed to leave behind him all the cares and anxieties of the day, and with a buoyant spirit and a cheerful manner welcomed the social converse of the evening. In the quiet of his own home, surrounded by choice literature and numerous works of art of which he was an excellent judge, the most lovable qualities of his mind and engaging attributes of his character were illustrated. Among congenial friends, his conversation was always enlivened with his own genial wit and humor and embellished by literary touches and an occasional reference to some "quaint and curious volume of forgotten lore." But I never heard him express an unjust, unkind or uncharitable thought respecting any person within the circle of his acquaintances. He "had no envy of another's fame" and his sleep was never disturbed by the "laurels of Miltiades". He was quick to appreciate and generous to commend the ability and learning of others.

Although Mr. Baker never married, he was fond of society and was never in any sense a recluse. He had a keen zest for rambles over the hilltops and through the "silent places" of

the woodland near his own home, and for many years had passed a portion of the long summer days by the resounding sea. The lines of a great poet appealed to him :

“ There is a pleasure in the pathless woods,  
There is a rapture on the lonely shore,  
There is society where none intrudes,  
By the deep sea, and music in its roar,  
I love not man the less, but nature more.”

It is sometimes said that the fame of the popular orator and of the advocate at the bar, however brilliant in their day, is but transitory, and that their triumphs soon become a fleeting memory and tradition, often passing with the generation that witnessed them. But the fame of Orville Dewey Baker is secure. No eulogy upon his life is required. He erected his own enduring monument. The deep impress which he made upon our jurisprudence and upon the public and professional life of the State, will perpetuate his memory to generations beyond ours, and cause his name to be inscribed among the highest on the roll of Maine’s great lawyers, powerful advocates and eloquent orators.

## HON. L. C. CORNISH

I doubt, if ever before in the history of this county, the Bar has lost from its ranks within the space of a few short months, four prominent members, engaged in the active work of their profession. Two of the number it has been my good fortune to be intimately associated with, Brother Baker and Brother Titcomb. Mr. Justice Whitehouse has in most fitting and discriminating terms spoken of Brother Baker and of the exalted place in the profession which he deservedly won. With all that he has said I most cordially concur and to it I would add a single personal word. As a student in the office of the father, Joseph Baker, and son, Orville D. Baker, for one year, associated in work with both for three years and then in partnership with the son for ten years more, I came to know them thoroughly and to recognize and appreciate the strong points of their characters. Keener, more logical, more comprehensive legal minds I have never met, and for the opportunity and the training afforded me by such association I shall ever be grateful. At this time it is my plain duty to make this recognition although it may seem somewhat of a digression from the topic assigned me.

And yet the digression is not so great. The

career of these two sons when taken in connection with the two fathers have run along lines surprisingly parallel in many respects. Joseph Baker was admitted to the Bar and signed his name in that little book in the possession of the clerk that is a treasure house of names, including that of the present Chief Justice of the United States, at the August Term, 1839. Samuel Titcomb signed only three years later at the August Term, 1842. Both ever after made this city their home and after long and useful and honorable professional careers, died in the harness, the one in 1883 and the other in 1892. Their sons were born within three months of each other, the one on December 23, 1847, and the other March 14, 1848, attended school together, were graduated, the one at Bowdoin and the other at Harvard and were admitted to the Bar within eighteen months of each other, the one at the March Term, 1872 and the other at the August Term, 1873. Both ever after made this city their home, and after an honorable professional career passed away within four months of each other, the one at the age of sixty years and eight months and the other sixty years and one month. The streams of life rarely move in such parallel channels.

Like father, like son, is an old adage, that is sometimes though not always true. In these two cases the sons did inherit largely in mental attributes, in temperament and predilections from the fathers, and while Mr. Baker, senior,

delighted most of all in the combat of actual trials and the brilliant display of talent that the court room affords, Mr. Titcomb, senior, preferred the more quiet lines, the work of the office of the probate court and those close and confidential relations with clients that exist on the part of the counsellor, but not necessarily on the part of the attorney at law. The sons followed their fathers and stepped into the practice and the same kind of practice that the elders had built up, and each in his sphere was a success and an authority.











